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ABSTRACT

This document is intended to help institutions of postsecondary education understand their rights and responsibilities relating to school cohort default rates for the Federal Family Education Loan (FFEL)Program. Section 1 focuses on the calculation of FY 1993 official cohort default rates including how student loan activity is tracked and reported, what student loans are included, how a loan's status affects the calculation, and cohort periods by fiscal year. Section 2 explains consequences of official cohort default rates. It covers default management requirements for all schools and consequences of default rates from less than 20 percent to more than 40 percent. Section 3 focuses on loss of FFEL program eligibility and the actions an institution in this situation should take. Section 4 details the FFEL appeal process such as conditions for filing an appeal, retaining program eligibility during the appeal process, and exceptional mitigating circumstances. Section 6 gives guidelines for appeals of high default rates based on allegations of improper loan servicing and collection. Sections 7 and 8 are on requesting back-up data and using the back-up data in the appeal process. Section 9 lists contacts at the Department of Education regarding default rate issues. (DB)

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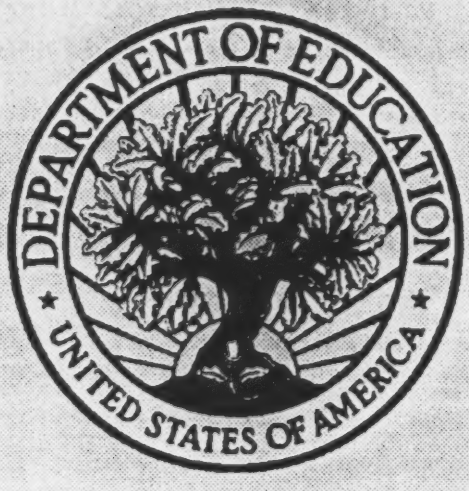
FY 1993 Cohort

Official Default Rate Guide



U.S. Department of Education
Default Management Section
Washington, DC 20202-5353

(202) 708-9396

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Introduction

Since the Fiscal Year (FY) 1992 official Federal Family Education Loan (FFEL) Program cohort default rates were published last year, the U.S. Department of Education (Department) introduced two new processes to enhance the procedures for collecting, calculating, and verifying the accuracy of the data used to calculate official cohort default rates. These changes are extremely positive because they will improve the overall accuracy of official cohort default rates.

First, the National Student Loan Data System (NSLDS) became operational. The guaranty agencies began reporting data to the NSLDS in November 1994. The FY 1993 cohort default rates are the first default rates calculated by the Department using NSLDS. Second, the FY 1993 official cohort default rates are the first default rates subject to a pre-publication review process.

In June 1995, the Department provided all schools with an opportunity to review and correct all errors in the FY 1993 cohort default rate data that the guaranty agencies reported to the Department on loans made to students under the Subsidized Federal Stafford, Unsubsidized Federal Stafford, and Federal Supplemental Loans for Students (Federal SLS) programs. Schools were given 30 calendar days from the receipt of the pre-publication data to notify the appropriate guaranty agencies of any data that they believed to be incorrect. Guaranty agencies were required to review and respond to schools' allegations of error, in writing, within 30 days. Guaranty agencies also were required to provide copies of their written responses to the Department and make the appropriate data changes to the NSLDS.

The FY 1993 official cohort default rates reflect corrections of any errors in the data that were identified by schools, the Department, and the guaranty agencies, and were reported to the NSLDS prior to the calculation of FY 1993 official cohort default rates.

Unexpected complications with the implementation of the two new processes in the same year have resulted in a delay in publishing FY 1993 official cohort default rates. The Department intends to provide schools with their FY 1994 pre-publication default data in the winter of 1996 so that it can return to the Department's customary schedule of publishing official cohort default rates in the summer.

This booklet, *The FY 1993 Official Cohort Default Rate Guide* (*The Guide*), formerly known as *Enclosure B: Information on School Cohort Default Rates*, is written by the Default Management Section of the Office of Postsecondary Education to assist schools in understanding their rights and responsibilities. **Please read this booklet and the regulations carefully.**

The Guide contains information relating to school cohort default rates only. Information about the cohort default rates of original lenders, current loan holders, and guaranty agencies may be obtained by contacting the Department's Guarantor and Lender Oversight Staff at the address or telephone number listed in Section 9.

This booklet is mailed to schools annually with their official cohort default rate notification letters. *The Guide* contains important information about the calculation of official school cohort default rates, the consequences associated with official cohort default rates, if any, and the appropriate procedures for filing an appeal. While every attempt is made to ensure that *The Guide* is complete, changes to applicable rules may occur after printing of this document. To the extent that this booklet is inconsistent with applicable federal statutes and regulations, the laws and regulations are controlling. Schools that participate in the FFEL Program are responsible for implementing all federal statutes and regulations governing the participation in a Title IV program, including the regulatory and statutory provisions pertaining to school cohort default rates. Therefore, schools should always consult the latest regulations or official statements of policy and procedures published by the Department in conjunction with *The Guide*. This booklet includes statutory and regulatory references for your convenience.

SECTION 1 - The Calculation of FY 1993 Official Cohort Default Rates

The FY 1993 official cohort default rates reflect corrections of any data that were identified as being inaccurate as a result of the pre-publication review process and were reported to the NSLDS prior to the calculation of FY 1993 official cohort default rates.

This section describes the reporting and calculation procedures used to calculate official cohort default rates. Section 8 also contains information on reporting requirements and procedures.

How Student Loan Activity Is Tracked and Reported

The FY 1993 official cohort default rate data were electronically reported to the NSLDS by the guaranty agencies on the basis of each school's Office of Postsecondary Education Identification Number (OPE ID). This number identifies each free-standing or separate institution and is entered by the school on every FFEL loan application. The OPE ID provides guaranty agencies with a means of reporting individual loan activity on a school-by-school basis. The FY 1993 official cohort default rate data were reported by the guaranty agencies according to the reporting procedures developed by the Department and reflect activity on loans through September 30, 1994.

Loans that were transferred from one guaranty agency to another were reported to the Department by the current guarantor of those loans. For example, if a loan was originally guaranteed by the Higher Education Assistance Foundation (HEAF) and was transferred to the Great Lakes Higher Education Corporation (Great Lakes), that loan was reported by Great Lakes.

Loans that were formerly guaranteed by guaranty agencies that have closed have been transferred to other guaranty agencies. The current guarantor of loans formerly held by a guaranty agency that has closed can be identified by the three-digit guaranty agency code listed on schools' back-up data. A list containing the names, addresses, and the guaranty agency codes used by the Department to identify each guaranty agency has been included at the end of this booklet. The contact for information on loans currently held by the Department is also discussed in that section.

Statutory and Regulatory References: Section 435(m)(1)(A) of the HEA and 34 C.F.R. § 668.17(h)

What Student Loans Are Included in the Calculation

The Department receives loan information from the guaranty agencies. This information is used to determine the number of borrowers who enter repayment on Subsidized Federal Stafford, Unsubsidized Federal Stafford, and Federal SLS loans in a particular fiscal year. Of those loans that enter repayment during a particular fiscal year, the guaranty agencies' information is used to determine the number of borrowers that defaulted on their loans before the end of the fiscal year immediately following the fiscal year they entered repayment. This reporting period is referred to as a **cohort period**. [1]

For the FY 1993 cohort period, the Department counts only those Subsidized Federal Stafford, Unsubsidized Federal Stafford, and Federal SLS loans that entered repayment in FY 1993 (anytime from October 1, 1992 through September 30, 1993). Any of those loans that defaulted on or before the end of FY 1994 (anytime from October 1, 1992 through September 30, 1994) are considered in default for purposes of the cohort default rate calculation. If a student entered repayment in FY 1993 and defaulted after September 30, 1994, the loan is counted as entering repayment in FY 1993, but it is not counted as a default in any fiscal year's cohort default rate calculation because the loan defaulted outside the cohort period in which it entered repayment.

Subsidized Federal Stafford, Unsubsidized Federal Stafford, and Federal SLS loans that qualified for reinsurance are included in the cohort default rate calculation. Lender-of-Last-Resort loans (i.e., Subsidized Federal Stafford loans made to borrowers by a designated lender-of-last-resort) are also included. Federal PLUS Loans and Federal Insured Student Loans are not used in the calculation. If a student defaults on a Federal Consolidation Loan during the appropriate cohort period, the loans that were paid off as a result of the consolidation are counted as in default in the calculation. See Section 435(m) of the HEA.

The number of students who enter repayment in each cohort period is determined by counting the number of different social security numbers in that category. If a student has more than one loan reported for that particular fiscal year (for example, two Federal Stafford loans or one Federal Stafford and one Federal SLS loan) the student is counted only once. However, if a student borrowed to attend more than one school, then the student is counted in the calculation for each school. Also, if a student has more than one loan and each loan enters repayment in different fiscal years, the student's loans are counted in each applicable fiscal year.

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[1] The FY 1987 to FY 1993 cohort periods are listed at the end of this section.

In most cases, schools may determine how the loan records are used in the calculation by looking at the last item in the right hand column of each loan record in the back-up data. The "Usage" field tells you how the specific loan record was used in your school's cohort default rate calculation. A "B" in this field means the loan was counted as in repayment and in default (i.e., it was included in both the denominator and numerator). A "D" means the loan was counted as in repayment (i.e., it was included in the denominator) only. An "N" means the loan was not used in the calculation of your school's cohort default rate. An "E" indicates that the Department did not count that particular loan in the calculation because the student had another loan listed that was already counted in the calculation. **Remember:** The Department only counts a borrower once in the calculation. Schools should read Section 8 for further information.

Please note: Some schools may have noticed differences between the numerical counts (i.e., numerator and denominator totals) of their FY 1993 pre-publication data and the FY 1993 pre-publication loan detail. NSLDS used two different programs to produce the numerical count and the loan detail. After the FY 1993 pre-publication data were mailed to schools, the Department discovered that these systems were not producing the same results when the pre-publication loan detail reports were produced. As a result, the numerator and denominator at the end of schools' loan detail reports did not always match the information provided in the loan detail report. This technical problem was corrected prior to the calculation of FY 1993 official cohort default rates.

Additional differences may be caused by loans that currently reside in the NSLDS that were not in the system at the time the FY 1993 pre-publication rates were calculated. Each loan must pass a series of edit checks before the NSLDS will accept the loan. If any edit fails, the entire loan record is rejected. Through a normal clean-up process, guaranty agencies correct data, ensuring that loans previously rejected have now been accepted. This error resolution process may account for additional loans that may appear on a school's loan detail report that were not on the pre-publication report.

How a Loan's Status Affects the Calculation

The following information is provided to answer the most frequently asked questions about how a loan's status, or changes in the status of a loan, affect the calculation of cohort default rates.

- The date a Subsidized Federal Stafford or Unsubsidized Federal Stafford loan enters repayment determines the fiscal year in which the loan is included in the calculation. The repayment period for a Subsidized Federal Stafford or Unsubsidized Federal Stafford loan does not start until the borrower has received the **complete** six-month grace period to which he or she is entitled. Therefore, a student who graduates from one school and transfers to another school before the expiration of his/her six-month grace period does not enter repayment until the student receives a complete, uninterrupted six-month grace period. (Please read Section 8 for the definitions used to determine the date entered repayment for Subsidized and Unsubsidized Federal Stafford and Federal SLS loans.)

- Loans that were paid off as a result of consolidation during FY 1993 are counted in the calculation as paid through consolidation. Please note that Section 435(m) of the HEA now requires the Department to track defaults on Federal Consolidation Loans. As a result, if a student defaults on a Federal Consolidation Loan during the cohort period in which the underlying consolidated loans entered repayment, the underlying loans that were consolidated are counted as in default in the calculation. NOTE: Federal Consolidation Loans will appear in back-up data with an "N" in the usage field, and the underlying loans will be listed below the consolidated loan with a default code.

- Loans that were discharged due to death, permanent disability, or bankruptcy are **not** counted as defaulted loans in calculating the FY 1993 cohort default rate **if** the guaranty agency was notified of the death, disability, or bankruptcy **before** the default. These loans are counted as having entered repayment.

- If a student entered repayment in FY 1993, defaulted on that loan during FY 1993 or FY 1994 and a default claim was paid, the loan is counted as in default for the FY 1993 cohort default rate calculation, even if the student later entered into a repayment arrangement with the guaranty agency, or repaid his or her loan in full.

- If a student entered repayment in FY 1993 and then defaulted on that loan during FY 1993 or FY 1994, the loan may not be considered in default for the purpose of calculating FY 1993 cohort default rates **if** the loan was rehabilitated **before** the end of FY 1994; it is rare, however, for a student to enter repayment on a loan, default on that loan, and then make 12 consecutive monthly payments to rehabilitate the loan all within the same cohort period. Please note that the consolidation of a defaulted loan does not constitute rehabilitation of that loan. A defaulted loan may be consolidated if the student makes six (6) consecutive payments, but that underlying loan is still in default.

- If a student pays his or her loan in full prior to the scheduled repayment begin date, or if he/she begins making payments prior to the scheduled repayment begin date, the date the loan was paid-in-full or the date the first payment was made (if prior to the scheduled repayment begin date) is the date that loan entered repayment.

- **Warning:** A loan is considered in default if a payment is made by an institution, its owner, agent, contractor, employee, or any other entity or individual affiliated with the institution, in order to avoid a default by the borrower. See Section 435(m)(2)(B) of the HEA. A payment made by any of these individuals or entities is considered a payment made to avoid the consequences of the cohort default rate.

Types of Cohort Default Rates

Official Versus Unofficial

A school may have either an official or an unofficial cohort default rate. An **official** cohort default rate is assigned to a school if it has 30 or more borrowers entering repayment during a fiscal year, has an average cohort default rate calculated, or is subject to the cohort default rate of another school(s) because of a change in the school's status. The method of calculating an official cohort default rate for a school that undergoes a change in status is described in the following pages.

If a school has an official or unofficial cohort default rate, it will be designated as such in the top right hand corner of the school's cohort default rate notification letter. The school's official cohort default rate determines what default reduction requirements the school must implement and what sanctions, if any, are associated with its official cohort default rate. The consequences of official cohort default rates are discussed in Section 2.

An **unofficial** cohort default rate is assigned to a school that has fewer than 30 borrowers entering repayment in FY 1993 if it did not have data reported by a guaranty agency in FY 1991 or FY 1992. A school that has been assigned an unofficial cohort default rate is not subject to any default reduction requirements or sanctions based on that unofficial cohort default rate.

Actual Cohort Default Rate

An **actual cohort default rate** is calculated for any school that had data reported by a guaranty agency. Usually, a school's official cohort default rate is the same as its actual cohort default rate. For example, **the official cohort default rate for a school that has 30 or more borrowers entering repayment in FY 1993 is the actual cohort default rate** for the school based on the data submitted by the guaranty agency(ies). One exception to this is when a school's official cohort default rate for the fiscal year is calculated based on an average, or when a school's official default rate is affected by a change in status.

Remember: The number of students who enter repayment is determined by counting the number of **different social security numbers** in that category. If a student has more than one loan reported in the data (for example, two Federal Stafford Loans or one Federal Stafford and one Federal SLS loan) the student will be counted only once. However, if a student borrowed to attend more than one school, he or she will be counted in the calculation for each school. Also, if a student has more than one loan and each loan enters repayment in different fiscal years, the student's loans will be counted in each applicable fiscal year.

The formula for calculating an **actual cohort default rate** is:

$$\frac{\text{\# of students who entered repayment in FY 1993 and defaulted on or before the end of FY 1994}}{\text{\# of students who entered repayment in FY 1993}} \times 100$$

Example:

A school has 100 students entering repayment in FY 1993 (October 1, 1992 through September 30, 1993). Of those 100 students, 25 defaulted on their student loans and had a default claim paid by the guaranty agency. This school's FY 1993 cohort default rate is calculated by dividing 25 by 100 and multiplying the result by 100 to produce a cohort default rate of 25.0 percent.

Average Cohort Default Rate

In accordance with Section 435(m)(1)(C) of the HEA, if a school has fewer than 30 of its current and former students entering repayment during a fiscal year, a cohort default rate is calculated based on the percentage of the school's current and former students who entered repayment on Subsidized Federal Stafford, Unsubsidized Federal Stafford, or Federal SLS loans in any of the three most recent fiscal years and defaulted before the end of the fiscal year immediately following the year in which they entered repayment. An **average cohort default rate is an official cohort default rate**, and determines the default reduction actions that a school is required to implement.

Because **a school with fewer than 30 borrowers entering repayment during a fiscal year has an average cohort default rate calculated** based on the data reported by the guaranty agencies for the three most recent fiscal years, **the school's official cohort default rate for a particular fiscal year will be different than its actual cohort default rate** for that fiscal year. Although both official and actual cohort default rates are provided in the school's cohort default rate notification letter, the school must use the **official** cohort default rate listed in the upper right hand corner of the letter to determine the default reduction measures it must implement. REMEMBER: With the exception of a school that previously had a substituted rate (because the school was formerly a location of another school), if a school did not have data reported in FY 1991 and FY 1992, it will **not** have an average rate calculated in FY 1993, even if it had fewer than 30 borrowers entering repayment in FY 1993. The school will have an **unofficial** cohort default rate calculated for FY 1993 because three years of data were not available. Therefore, no specific default reduction action is required.

The formula for calculating an **average cohort default rate** is:

$$\frac{\text{\# of students who entered repayment in FY 1991, FY 1992, and FY 1993 and defaulted before the end of the fiscal year immediately following the fiscal year they entered repayment}}{\text{\# of students who entered repayment in FY 1991, FY 1992, and FY 1993}} \times 100$$

Please Note: If a school has had its FY 1991, FY 1992, or FY 1993 cohort default rate revised due to a recalculation of that default rate or substituted due to a change in the school's status, the revised or substituted data are used to calculate an average cohort default rate for the school.

Revised Official Cohort Default Rate

When a school's FY 1991 or FY 1992 official cohort default rate is revised through recalculation or appeal, the new cohort default rate is reflected in all rates generated with regard to that school. However, the back-up data (i.e., loan records) for those prior years generally will not agree with the change in rates. Therefore, the school should keep a copy of the documentation that shows the changes in the data that resulted from its cohort default rate revisions and copies of the Department's determination letters that show any revised official cohort default rates.

Schools that have had revisions made to their FY 1991 and/or FY 1992 cohort default rates should read Section 8 for further information on how these data changes will be reflected in the back-up data reports they may receive with their FY 1993 official cohort default rate notification letters.

Treatment of Cohort Default Rates for Schools that Change Status

Rules governing the application of cohort default rates to schools that change status through branching, consolidation, change of ownership, or other means are prescribed by 34 C.F.R. § 668.17(e)(iii). Examples of status changes that affect the calculation of official cohort default rates are described below.

Free-standing to Separate Location of Another School

When a school that was free-standing becomes a location (branch) of another school, the Department will add the repayment and default data of the former free-standing school to the repayment and default data for the new parent school and will calculate a cohort default rate on that basis for the parent school and all of its locations. This new rate is the **official** cohort default rate for the new parent school and all of its locations.

Location to Location

If a school changes its status from a location (branch) of one school to a location (branch) of another school, the Department will combine the repayment and default data in the same way as is done for free-standing to location status changes. The repayment and default data for the former parent school will be added to the repayment and default data for the new parent school and will be the basis for calculating an official cohort default rate for the new parent school and all of its locations.

Note: The Department will add the repayment and default data for any fiscal year's cohort default rate calculation if the school was still recognized as a part of another school for any part of that fiscal year. For example, if a school undergoes a location to location change on January 30, 1995 (which is in FY 1995), the Department will add the repayment and default data for the calculation of the FY 1993, FY 1994, and FY 1995 cohort default rates because the school was a branch of its former school on October 1, 1992, October 1, 1993, and October 1, 1994, the first day of each fiscal year. When the FY 1996 rates are calculated, the school's default rate will not include the merged data because it was not a part of the former parent on October 1, 1995, the first day of FY 1996.

Merger of Free-standing Schools

When two or more free-standing schools merge, the repayment and default data for all schools are combined to calculate an official cohort default rate for each school.

Change of Ownership

There are certain requirements that apply when a school undergoes a change in ownership. If the new owner applies for eligibility to participate in Title IV student aid programs as a continuation of the old school, the new owner remains responsible for the school's cohort default rates and the requirements associated with those rates.

New owners should be aware that cohort default rates calculated for fiscal years prior to the change in ownership may impact on the school's eligibility to participate in Title IV programs. In fact, a school undergoing a change in ownership may be refused certification for participation in any Title IV program or be provisionally certified on the basis of the school's current official cohort default rate. See Section 498(h) and (i) of the HEA.

Questions regarding change of ownership or eligibility and certification issues should be directed to the Institutional Participation Division by calling: 202-401-6485.

Cohort Periods by Fiscal Years

FY 1987	**Defaulted (numerator)**	**10-1-86 to 9-30-88**
	Enter Repay (denominator)	**10-1-86 to 9-30-87**
FY 1988	**Defaulted (numerator)**	**10-1-87 to 9-30-89**
	Enter Repay (denominator)	**10-1-87 to 9-30-88**
FY 1989	**Defaulted (numerator)**	**10-1-88 to 9-30-90**
	Enter Repay (denominator)	**10-1-88 to 9-30-89**
FY 1990	**Defaulted (numerator)**	**10-1-89 to 9-30-91**
	Enter Repay (denominator)	**10-1-89 to 9-30-90**
FY 1991	**Defaulted (numerator)**	**10-1-90 to 9-30-92**
	Enter Repay (denominator)	**10-1-90 to 9-30-91**
FY 1992	**Defaulted (numerator)**	**10-1-91 to 9-30-93**
	Enter Repay (denominator)	**10-1-91 to 9-30-92**
FY 1993	**Defaulted (numerator)**	**10-1-92 to 9-30-94**
	Enter Repay (denominator)	**10-1-92 to 9-30-93**

---Default Rate Thresholds for Loss of FFEL Program Eligibility---

FY 1987, FY 1988, FY 1989 = 35% or greater
FY 1988, FY 1989, FY 1990 = 35% or greater
FY 1989, FY 1990, FY 1991 = 30% or greater
FY 1990, FY 1991, FY 1992 = 25% or greater
FY 1991, FY 1992, FY 1993 = 25% or greater

SECTION 2 - Consequences of Official Cohort Default Rates

Listed below are the default management requirements and consequences, if any, associated with FY 1993 official cohort default rates. These actions are required by 34 C.F.R. § 668.17 and the HEA. These requirements and/or consequences apply to a school with an FY 1993 official cohort default rate based on 30 or more borrowers entering repayment, or a school that has an average FY 1993 official cohort default rate. A school that has an FY 1993 **unofficial** cohort default rate is not required to take any specific default management actions other than those required of **all** schools, regardless of their cohort default rates.

All Schools

All schools are required to implement the following measures:

1. No school may deliver the first installment of a Federal Stafford loan to a student who is enrolled in the first year of an undergraduate program of study and who has not previously received a Federal Stafford loan until 30 days after the first day of the student's program of study 34 C.F.R. § 682.604(c)(5); **and**

2. Unless a school's refund policy is more beneficial to the student in accordance with state law or the requirements of the school's accrediting agency, a school must implement a pro rata refund policy for students who are attending the institution for the first time and do not complete up to 60.0 percent of the period of enrollment for which the student has been charged.
   Section 484B of the HEA and 34 C.F.R. § 682.606

The above provisions must be implemented by each school in addition to the default reduction measures required because of the school's specific official cohort default rate(s).

Official Cohort Default Rates from 0 to 20.0 Percent

A school with an official cohort default rate of 20.0 percent or less is not required to take any additional default reduction actions. However, the Department urges schools in this category to monitor their default rate situations and take appropriate steps to keep their cohort default rates as low as possible.

WARNING Schools in the following cohort default rate categories should be aware that an acceptable official cohort default rate is a requirement for continued participation in the Title IV programs. Upon application for recertification, schools will be provisionally certified if they have official cohort default rates of 25.0 percent or greater for one or more of the three most recent fiscal years. If the school has appealed its official cohort default rate, the Institutional Participation Division will continue to use the official cohort default rate to determine institutional eligibility until a revised official cohort default rate is assigned. For further information, please read the regulations at 34 C.F.R. § 668.16(m)(1) and (2)(i). **Questions regarding provisional certification based on official cohort default rates should be directed to the Institutional Participation Division at 202-401-6485 or 401-6486.**

If your school's official cohort default rates are such that it is subject to provisional certification or loss of participation for any Title IV programs under 34 C.F.R. § 668.16(m)(1) or (2), it must appeal NOW under the applicable provisions of 34 C.F.R. § 668.17. If your school fails to appeal its official cohort default rate(s) in accordance with the appropriate grounds specified in 34 C.F.R. § 668.17, it may not file an appeal under that section at a later date. Also, if your school has previously challenged the calculation of a particular fiscal year's cohort default rate, it may not challenge that default rate again. See 34 C.F.R. § 668.17(g).

Official Cohort Default Rates from 20.1 to 40.0 Percent

A school with an official cohort default rate from 20.1 to 40.0 percent must submit a default management plan to the Department and its principal guaranty agency. The school may adopt the provisions of 34 C.F.R. Part 668, Appendix D as its default management plan, or it may submit a plan specifically developed for its school. If the school elects to submit its own plan, it must justify any deviations from the requirements of Appendix D. For your convenience, a copy of Appendix D is included at the end of this section.

The school does not have to submit a new default management plan if it already has an approved plan on file with the Department. At a later date, the Department will provide instructions on how to submit a plan to those schools that are required to have a plan, but do not currently have one. Please do **not** submit a default management plan to the Department until your school has been requested to do so through a separate letter.

A school that wishes to revise a previously approved default management plan must notify the Department of the revision. The revised plan must be marked **Revision** and should be sent to the Default Management Section at the address listed in Section 9.

Regulatory Reference: 34 C.F.R. § 668.17 (b)(1)

Official Cohort Default Rates of 40.1 Percent or Greater

A school with an official cohort default rate in excess of 40.0 percent **may** be transferred to a system of reimbursement or be subject to limitation, suspension, or termination (LS&T) **from all Title IV programs** based on that default rate. A school in this default rate category will be notified should the Department decide to initiate an administrative action, and will be given the opportunity for a hearing before that decision is effective.

Please be advised that the diligent implementation of all of the default reduction measures outlined in 34 C.F.R. 668, Appendix D will be the only defense a school in this category will have against any action to limit, suspend, or terminate its participation in the Title IV programs based on its cohort default rate. The school must implement all of the measures described in Appendix D no later than 60 days after the school's receipt of notification that its FY 1993 official cohort default rate is greater than 40.0 percent. A copy of Appendix D is included at the end of this section.

Regulatory References: 34 C.F.R. § 668.17 (a)(1); 34 C.F.R. § 668.90 (a)(3)(iv); and 34 C.F.R. § 668.17(b)(2).

Official Cohort Default Rates of 25.0 Percent or Greater for FY 1991, FY 1992, and FY 1993

A school that has FY 1991, FY 1992, and FY 1993 official cohort default rates of 25.0 percent or greater loses its eligibility to participate in the FFEL Program **immediately** upon receipt of notification from the Department that its rates have exceeded this level for these years, unless the school submits a timely and complete appeal as discussed in Section 4. This loss of FFEL Program eligibility is otherwise effective until October 1, 1997. Additionally, a school's eligibility to participate in the William D. Ford Direct Loan (Direct Loan) Program ends upon receipt of notification that it has lost eligibility to participate in the FFEL Program.

Further information pertaining to the loss of FFEL Program eligibility is provided in section 3. Section 4 describes the FFEL appeal processes.

Statutory and Regulatory References: Section 435(a)(2) of the HEA and 59 Fed. Reg. 8080, 8081, paragraph I.B. (February 17, 1994).

APPENDIX D TO PART 668--DEFAULT REDUCTION MEASURES

This appendix describes the measures that an institution with a high default rate under the Federal Stafford Loan and Federal SLS programs should find helpful in reducing defaults. An institution with a fiscal year default rate that exceeds the threshold rate for a limitation, suspension, or termination action under 34 C.F.R. § 668.17 may avoid that sanction by demonstrating that the institution has implemented the measures included in this appendix. Other institutions should strongly consider taking these steps as well.

To reduce defaults, the Secretary recommends that the institution take the following measures:

I. Measures to Reduce Defaults by Dropouts

1. Revise admission policies and screening practices, consistent with applicable State law, to ensure that students enrolled in the institution, especially those admitted under "ability to benefit" criterion or those in need of substantial remedial work, have a reasonable expectation of succeeding in their programs of study.

2. Improve the availability and effectiveness of academic counseling and other support services to decrease withdrawal rates, particularly with respect to academically high-risk students.

3. In consultation with the cognizant accrediting body, attempt to reduce its withdrawal rate by improving its curricula, facilities, materials, equipment, qualifications and size of faculty, and other aspects of its educational program.

4. Increase the frequency of reviews of in-school status of borrowers to ensure the institution's prompt recognition of instances in which borrowers withdraw without notice to the institution.

5. Implement a compensation structure for commissioned enrollment representatives and salesmen under which a representative or salesman earns no more than a nominal commission for enrolling students that never attend school, and progressively greater commissions for students who remain in school for substantial periods.

6. Implement a *pro rata* refund policy, as defined in 34 C.F.R. § 682.606(b)(2)and(c).

7. Delay certification of a first-time borrower's loan application, as described in 34 C.F.R. § 682.603(c).

8. Except in the case of a program of study by correspondence, require each first-time student borrower to endorse the loan check at the institution, and pick up at the institution any loan proceeds remaining after deduction of institutional charges.

II. Measures to Reduce Defaults Related to Borrower's Difficulty Finding Employment

1. Expand its job placement program for its students by, for example, increasing contacts with local employers, counseling students in job search skills, and exploring with local employers the feasibility of establishing internship and cooperative education programs.

2. In consultation with the cognizant accrediting body, attempt to improve its job placement rate and licensing examination pass rate by improving its curricula, facilities, materials, equipment, qualifications and size of faculty, and other aspects of its educational program.

3. Establish a liaison for job information and placement assistance with the local office of the United States Employment Service and the Private Industry Council supported by the U.S. Department of Labor.

III. Measures To Improve Borrowers' Understanding and Respect for the Loan Repayment Obligation

1. In cooperation with the lender and in compliance with the law, including the Fair Debt Collection Practices Act, if applicable, contact each borrower with respect to whom the lender has requested preclaims assistance from the guarantee agency to urge the borrower to repay the loan and to emphasize the consequences of default listed in item III.5(a)(3)(ii), below, by means of telephone contacts and letters sent "Forwarding and Address Correction Requested."

2. In cooperation with the lender and compliance with the law, including the Fair Debt Collection Practices Act, if applicable, contact a borrower during the grace period in order to--

(i) Remind the borrower of the importance of the repayment of the importance of the repayment obligation and of the consequences of default list in item III.5(a)(3)(ii), below, by means of telephone contacts and letters sent "Forwarding and Address Correction Requested"; and

(ii) Update the institution's records regarding the borrower's address, telephone number, employer, and employer's address.

3. At the time of a borrower's admission to the institution, obtain information from the borrower regarding references and family members beyond those provided on the loan application, to enable the institution to provide the lender with a variety of ways to locate a borrower who later relocates without notifying the lender.

4. Require an enrollment representative or salesman to explain carefully to a prospective student that, except in case of a loan made or originated by the institution, the student's dissatisfaction with, or nonreceipt of, the educational services being offered by the institution does not excuse the borrower from repayment of any Stafford or SLS loan made to the borrower for enrollment at the institution.

5. Conduct the following counseling activities in addition to those described in 34 C.F.R. Part 682, Subpart F:

(a) As part of the initial loan counseling provided to a Stafford Loan or SLS borrower--

(1) Provide information to the borrower regarding, and through the use of a written test and intensive additional counseling for those who fail the test, ensure the borrower's comprehension of, the terms and conditions of Stafford and SLS loans, including--

(i) The stated interest rate on the borrower's loans;

(ii) The applicable grace period provided to the borrower and the approximate date the first installment payment will be due;

(iii) A description of the charges imposed for failure of the borrower to pay all or part of an installment payment when due; and

(iv) A description of any charges that may be imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the lender or guarantee agency to collect the loan, including attorney's fees;

(2) Explain the borrower's rights and responsibilities in the Stafford Loan and SLS programs including--

(i) The borrower's responsibility to inform his or her lender immediately of any change of name, address, telephone number, or Social Security number;
(ii) The borrower's right to deferment, cancellation, or postponement of repayment, and the procedures for obtaining those benefits;
(iii) The borrower's responsibility to contact his or her lender in a timely manner, before the due date of any payment he or she cannot make; and
(iv) The availability of forbearance under the circumstances and procedures described in 34 C.F.R. Part 682;

(3) Provide to the borrower--

(i) (A) General information on the average indebtedness of student borrowers who have obtained Stafford Loan or SLS program loans for attendance at that institution and the average amount of a required monthly payment based on that indebtedness; or

(B) The estimated balance owed by the borrower on Stafford and SLS loans, and the average amount of a required monthly payment based on that balance; or

(ii) Detailed information regarding the consequences of the failure to repay the loan, including a damaged credit rating for at least seven (7) years, loss of generous repayment schedule and deferment options, possible seizure of Federal and State income tax refunds due, exposure to civil suit, liability for collection costs, possible referral of the account to a collection agency, garnishment of wages if the borrower is a federal employee, and loss of eligibility for further Federal Title IV student assistance.
(4) Review the repayment options (e.g., loan consolidation, refinancing) available to the borrower;
(5) Explain the sale of loans by lenders and the use by lenders of outside contractors to service loans; and
(6) Provide general information on budgeting of living expenses and other aspects of personal financial management.

(b) As part of the exit counseling provided to a Stafford loan or SLS borrower--

(1) Provide the counseling and testing described in paragraph (a) for the initial loan counseling;
(2) Provide a sample loan repayment schedule based on the borrower's total loan indebtedness for attendance at that institution;
(3) Provide the name and address of the borrower's lender(s) according to the institution's records;
(4) Provide guidance on the preparation of correspondence to the borrower's lender(s) and completion of deferment forms; and
(c) Obtain information from the borrower regarding the borrower's address, the address of the borrower's next-of-kin, and the name and address of the borrower's expected employer.

6. Use available audio-visual materials, such as videos and films, to enhance the effectiveness of its initial and exit counseling.

IV. General

1. Conduct an annual comprehensive self-evaluation of its administration of the Title IV programs to identify institutional practices that should be modified to reduce defaults, and then implement those modifications.

SECTION 3 - Loss of FFEL Program Eligibility

Under Section 435(a)(2) of the HEA, a school that has FY 1991, FY 1992, and FY 1993 official cohort default rates of 25.0 percent or greater will lose its eligibility to participate in the FFEL Program immediately upon receiving notification from the Department that its rates have exceeded this level for three years, unless the school submits a complete and timely appeal in accordance with the criteria and procedures described in 34 C.F.R. § 668.17. This loss of eligibility will otherwise extend until October 1, 1997, the first day of FY 1998.

In addition, a school's eligibility to participate in the Direct Loan Program also ends upon receipt of notification that it has lost eligibility to participate in the FFEL Program. However, the school may appeal the loss of FFEL Program eligibility under 34 C.F.R. § 668.17(d) and (f), and retain eligibility for both programs during the appeal process if its appeal is submitted in accordance with the criteria described in the regulations.

Questions about the steps to be taken by a school that loses Direct Loan Program eligibility, including those pertaining to the close-out audit requirements, should be directed to the appropriate regional office.

The following steps should be taken by a school that loses FFEL Program eligibility under Section 435(a)(2) of the HEA:

1. Immediately upon notification of the loss of FFEL Program eligibility, the school should inform all of its current and potential students that it is no longer eligible to participate in the FFEL Program and that students who attend the school cannot receive any FFEL Program assistance. However, students attending the affected school remain eligible for in-school deferments.

2. Students attending a school that loses its FFEL Program eligibility under Section 435(a)(2) should be treated in the same manner as students who are enrolled in a school that loses its FFEL Program eligibility for other reasons. A student who is enrolled and has received a first disbursement of his or her FFEL Program loan before the school loses its FFEL Program eligibility may receive any remaining disbursements of that loan as long as the student is otherwise eligible. 34 C.F.R. § 668.26 (d)(2)

3. A student who has **not** received a first disbursement of his or her student loan by the time the school is notified that it has lost its FFEL Program eligibility **may not** receive any FFEL Program loan proceeds. This is true even if the loan application has been certified by the school, guaranteed by a guarantor, or if the loan proceeds have been received by the school. These funds must be returned to the lender immediately. 34 C.F.R. § 668.26

Questions regarding the close-out audit of the FFEL Program should be directed to the Audit Resolution Branch at 202-708-8208.

SECTION 4 - The FFEL Appeal Processes
For Schools That Lose FFEL Program Eligibility

Conditions for Filing an FFEL Appeal

A school that loses its FFEL Program eligibility because its FY 1991, FY 1992, and FY 1993 official cohort default rates equal or exceed 25.0 percent has the opportunity to appeal that action. The Department published regulations at 34 C.F.R. § 668.17 (c), (d) and (f) that define the criteria and procedures for appeals based on exceptional mitigating circumstances and the calculation of the default rate. Please note that the Department now has two types of appeals of the calculation of the default rate: allegations of erroneous data and improper loan servicing and collection. A school should refer to the regulations for detailed descriptions of the standards and procedures for an appeal based on exceptional mitigating circumstances, allegations of erroneous data, and improper loan servicing and collection.

Retaining FFEL and Direct Loan Program Eligibility During the Appeal Process

The loss of FFEL and Direct Loan Program eligibility is effective with the school's receipt of the Department's notification that the school's FY 1991, FY 1992, and FY 1993 official cohort default rates equal or exceed 25.0 percent, unless the school files a timely appeal of its loss of eligibility. A school that is eligible and participating in the FFEL program, or is eligible for the FFEL program and is participating in the Direct Loan or the Direct Loan and the FFEL Programs, at the time that the notification is received may remain eligible during the appeal process if the school meets the regulatory requirements and deadlines, which are set forth in the following summaries of each of the three appeal processes (exceptional mitigating circumstances, erroneous data, and improper loan servicing and collection).

EXCEPTIONAL MITIGATING CIRCUMSTANCES

An exceptional mitigating circumstances appeal must be based on one of the following:

EITHER -

Low Federal Stafford and Federal SLS Borrower Rate (15%)
The school must demonstrate that in a recent 24-month period 15.0 percent or fewer of its at least half-time students received Federal Stafford or Federal SLS loans;

OR -

Serving Economically Disadvantaged Students (66 2/3%)
The school must demonstrate that in a recent 24-month period two-thirds or more of its at least half-time students were from disadvantaged economic backgrounds;

AND in Addition to Meeting One of Those Criteria:

Completion Percentage (66 2/3%)
The school must demonstrate that two-thirds of its full time students completed the educational programs in which they were enrolled. A full time student for these purposes is one who was classified as full-time at the time of enrollment and who was originally scheduled, at the time of enrollment, to complete his or her program of study within the selected 24-month period; **AND**

Job Placement Percentage (66 2/3%)
The school also must demonstrate that two-thirds or more of the students who received a degree, certificate, or other recognized educational credential from the school within a recent 24-month period, were employed in or had been employed in jobs for at least 13 weeks or transferred to higher levels of education for which the school's program provided substantial preparation.

Deadlines for Exceptional Mitigating Circumstances Appeals

1. **Within 7 calendar days** from the school's receipt of the Department's notice that the school's official cohort default rates equal or exceed the 25.0 percent threshold for the relevant three-year period, the Department must receive written notice from the school that it intends to appeal its loss of FFEL Program eligibility; **and**

2. **Within 30 calendar days** of the receipt of notification that the school's official cohort default rates equal or exceed the 25.0 percent threshold for the relevant three-year period, the school must submit a complete appeal to the Department.

A school that fails to meet the first deadline, which only requires the school to notify the Department of its intent to appeal within seven (7) calendar days, may still appeal its loss of FFEL Program eligibility on the basis of exceptional mitigating circumstances **if** a complete appeal is submitted within 30 calendar days of receipt of notification as described above. However, the school will **not** remain eligible to participate in either the FFEL or, if applicable, the Direct Loan Programs during the appeal process. Only schools that meet all of the above criteria will remain eligible to participate in the FFEL and, if applicable, Direct Loan Programs during the appeal process. **THERE WILL BE NO EXTENSIONS GRANTED IF YOUR SCHOOL FAILS TO MEET ANY OF THE REQUIRED DEADLINES.**

Requirements for Exceptional Mitigating Circumstances Appeals

A school that appeals on the basis of exceptional mitigating circumstances must provide all of the information required in the regulations. The appeal must be complete and comprehensive. The Department is not required to ask the school for additional or clarifying information. The appeal requirements are in the Department's regulations at 34 C.F.R. § 668.17(d)(1)(ii). Schools should read the regulations to ensure that the appeal is complete prior to submitting the appeal. At the end of this section is a chart that briefly describes the suggested format for submitting an appeal on the grounds of exceptional mitigating circumstances.

Schools appealing under this criteria must adhere to the following steps:

Step 1. Select a 24-month period.

You may select any 24-month period, provided it is a full 24-month period that ends not more than six (6) months prior to the date the appeal is submitted. For example, if your appeal is submitted on December 30, 1995, the 24-month period used in your appeal cannot end earlier than June 30, 1995. **REMEMBER: You must identify the 24-month period in your school's appeal.**

Step 2. Identify the total enrollment figure.

To demonstrate that your school has a low Federal Stafford and Federal SLS borrower rate or that it serves a high percentage of economically disadvantaged students, you must use as a base **all students enrolled on at least a half-time basis in your school during the 24-month period.** This includes all non-aid recipients and students enrolled in programs not eligible for Title IV assistance. However, do not include students who died or became totally or permanently disabled in the school's total enrollment figure or completion and placement rates. Remember: Each student is counted only once. Students included in the total enrollment figure did **not** have to begin or end their enrollment during the 24-month period; they only had to be enrolled in the school at least half-time sometime during the selected 24-month period.

Step 3. Choose the standard for appeal (either low Federal Stafford and Federal SLS borrower rate or serving economically disadvantaged students).

If choosing:

▸ **Low Federal Stafford and Federal SLS Borrower Rate**, the school must prove that its percentage of Federal Stafford and SLS borrowers is less than 15.0 percent.

This percentage is calculated by using the following formula:

$$\frac{\text{The unduplicated number of students counted in the total enrollment figure that received a Federal Stafford or SLS loan.}}{\text{The total enrollment computed in Step 2.}} \times 100$$

NOTE: If your appeal is on the grounds that the percentage of Federal Stafford and Federal SLS borrowers is less than 15.0 percent of your school's total enrollment, you must list the name, social security number, and address of each borrower.

If choosing:

▸ **Serving Economically Disadvantaged Students**, the school must prove the percentage served is 66 2/3 percent or higher.

This percentage is calculated by using the following formula:

$$\frac{\text{The unduplicated number of students counted in the total enrollment that are identified as having economically disadvantaged backgrounds.}}{\text{The total enrollment computed in Step 2.}} \times 100$$

NOTE: If your school's appeal is on the grounds that 66 2/3 percent of your school's at least half-time students are from disadvantaged economic backgrounds, you must list the name, social security number, and address of each student from a disadvantaged economic background; and, to demonstrate that a student is economically disadvantaged, the school must submit evidence that the student qualified for an Expected Family Contribution (EFC) of zero, or that the student and his/her parents or spouse had adjusted gross incomes reported for the applicable award years of less than the poverty income level established by the Department of Health and Human Services.

Step 4. Identify the completion rate (66 2/3% or higher).

The formula for this percentage is:

$$\frac{\text{Of the unduplicated number of full time students who were initially scheduled to complete their programs within the identified 24-month period, the number that completed their programs.}}{\text{The unduplicated number of full time students who were initially scheduled to complete their programs within the identified 24-month period.}} \times 100$$

NOTE: Scheduled to complete does not mean that students had to be enrolled and scheduled to complete their programs of study at the school within the same 24-month period. The completion rate should not include students who left school to serve in the armed forces.

A student should be counted in the denominator (total number of students scheduled to complete) if that student attended class at the school and an enrollment agreement was executed for that student. Students who were scheduled to complete during the relevant 24-month period and who dropped out prior to the start of the 24-month period must also be counted. The total number of students scheduled to complete a program of study during the 24-month period is the denominator. **The school must provide a list of the names of the students scheduled to complete and their social security numbers with its appeal.**

Students who (1) completed the program, (2) transferred to a higher level program at another institution for which the school's program provided substantial preparation, or (3) are still enrolled and maintaining satisfactory progress should be included in the school's appeal as completers (numerator). **For each student in one of these categories, identify which completion category was met, and include the student's name, address, social security number, completion date, program of study, and the length of the program. For students who transferred to a higher level program, your school must provide the name and address of the institution, and the program of study to which the student transferred.** Each student may be counted only once.

Step 5. Identify the job placement rate (66 2/3% or higher).

The formula for this percentage is:

$$\frac{\text{Of the unduplicated number of students who received a degree, certificate, or other recognized credential within the 24-month period, the number that obtained employment in a relevant occupation.}}{\text{The unduplicated number of students who received a degree, certificate, or other recognized credential within the 24-month period, regardless of their enrollment status during the 24-month period.}} \times 100$$

NOTE: The school must submit a list of the names and social security numbers of the students counted in the denominator (number of students who received a degree or certificate during the 24-month period selected). The school must exclude students who left school to serve in the Armed Forces.

Students should be included in the numerator if they are currently, or were for at least 13 weeks, employed in an occupation for which the school provided training, or are currently, or were for at least 13 weeks, enrolled in a higher level program at another institution for which the school's program provided substantial preparation. **Each student is counted only once.** For each student in these two categories, the school must identify which placement category was met, and include the student's name, address, social security number, and graduation date. The regulations also require schools to supply the Department with each student's employer's name and address, the student's job title, and the dates the student was employed (both beginning and ending employment dates). For students who were enrolled in a higher level program, the school must include the name and address of the institution in which each student enrolled, the program of study in which the student enrolled, and the dates the student was enrolled. (See "Sample Format for Submitting Appeals on the Grounds of Mitigating Circumstances" at the end of this section.)

Please be advised that in determining your school's placement rate, you can count as successful placements only those former students for whom you can provide the information required by the regulations. See 34 C.F.R. § 668.17(d)(9)(iv)

REMEMBER: If your school's appeal is based on either standard for an exceptional mitigating circumstances appeal, your appeal must directly respond to the regulatory requirements. 34 C.F.R.§ 668.17(d)(1)(ii). Your appeal will be evaluated on the basis of the information you provide and any documentation specifically requested by the Department to evaluate your appeal. **All information supplied to the Department will be verified prior to rendering a decision on your school's appeal**. If all of the information needed to evaluate your school's appeal is not provided with your original appeal submission, the appeal may be determined to be incomplete and denied.

Format for Exceptional Mitigating Circumstances Appeals

The Department's review of a school's appeal will be facilitated if it is submitted in a format with all required data clearly and logically presented. **If an appeal is not submitted in a format that may be easily reviewed and analyzed, the Department may not be able to conclude that the school has satisfied its burden of showing that its appeal should be granted. In addition, information that is not clearly presented may result in a determination that the appeal is not supported.**

An exceptional mitigating circumstances appeal should clearly state the specific conditions on which it is based. **Students must be listed in either alphabetical or social security number order**, and all required information should be clearly labeled and presented in the order required by the regulations. Examples of how appeal information should be presented are included at the end of this section.

ERRONEOUS DATA

A school also may appeal its loss of eligibility to participate in the FFEL and, if applicable, Direct Loan Program if it can demonstrate that the information used to calculate its official cohort default rate for one or more of the relevant fiscal years is incorrect, and a recalculation of its cohort default rate, using corrected data, would produce a cohort default rate below the 25.0 percent threshold. 34 C.F.R. § 668.17(d)(1)((i)(A) and (B). An appeal based on erroneous data must include a response from the appropriate guaranty agency(ies) regarding the school's claim that the original data were incorrect and that the revised information should be used to calculate the correct official cohort default rate(s).

Evidence Requirement and Restrictions on Appeals Based on Erroneous Data

In accordance with 34 C.F.R. § 668.17(d)(1)(i)(A) and (B), schools are required to submit evidence as part of their erroneous data appeal to demonstrate that a recalculation with corrected data will produce an official cohort default rate below 25.0 percent for any one of the relevant fiscal years.

The "Checklist for Final Submission of a Complete Appeal," which is provided at the end of this section, may be used by a school to demonstrate that the guaranty agency(ies) has/have verified data errors that will produce a cohort default rate below 25.0 percent for any one of the relevant fiscal years. If the school does not or cannot provide the checklist or other such evidence when it submits its complete appeal, the Department will notify the school that it did not fulfill the regulatory requirements to appeal its loss of FFEL Program eligibility. The school's eligibility to participate in the FFEL and, if applicable, Direct Loan Programs will end immediately upon receipt of such notification.

A school also should be aware that the regulations at 34 C.F.R. § 668.17 (g) and (h)(7) prohibit a school from challenging a particular fiscal year's cohort default rate calculation if the school previously challenged that cohort default rate or data. For example, if a school challenged its FY 1992 official cohort default rate, it may not now include as part of its appeal any challenge to the data used to calculate the FY 1992 rate. If a school challenged its FY 1993 pre-publication data, or chose not to challenge the data when provided an opportunity to do so, it may not include as part of its appeal any challenge to the data used to calculate its FY 1993 official cohort default rate. However, the Department will allow a school to challenge FY 1993 official cohort default rate data that were not included in the FY 1993 pre-publication cohort default rate data and allegations of error that were challenged during the pre-publication review process but were not resolved prior to the calculation of FY 1993 official cohort default rates.

Deadlines for Erroneous Data Appeals

An appeal based on erroneous data will be considered to be submitted timely if the school meets each of the following deadlines:

1. **Within 7 calendar days** from the school's receipt of the Department's notice that the school's official cohort default rates equal or exceed the 25.0 percent threshold for the relevant three-year period, the Department receives written notice from the school that it intends to appeal its loss of FFEL program eligibility. This can be the same letter sent for an exceptional mitigating circumstances appeal.

2. **Within 10 working days from the date the school receives its notification** that its official cohort default rates equal or exceed the 25.0 percent threshold for the relevant three-year period, the school submits a written request to each relevant guaranty agency for verification of the identified inaccuracies of cohort default rate data, **and simultaneously forwards a copy of the request to the Default Management Section.**

3. **Within 5 working days of the school's receipt of the confirmed data from all of the guaranty agencies,** the school submits to the Department all the data verified by the guaranty agencies, and provides evidence that one of the relevant official cohort default rates will be reduced below 25.0 percent after a recalculation is performed. **NOTE: PLEASE DO NOT SEND YOUR SCHOOL'S APPEAL TO THE DEPARTMENT UNTIL YOUR SCHOOL HAS RECEIVED ALL OF THE RESPONSES FROM ALL OF THE GUARANTY AGENCIES.**

NOTE REGARDING TIME REQUIREMENTS: The regulations require that a complete appeal be submitted to the Department within 30 calendar days of the receipt of notification that the school's cohort default rates equal or exceed the 25.0 percent threshold for the relevant three-year period [See 34 C.F.R. § 668.17(c)(7)(ii)]. The regulations also require guaranty agencies to respond to a school's request for verification of data within 15 working days [See 34 C.F.R. § 682.401(b)(14)]. However, a school that appeals on the basis of erroneous data may not be able to provide all of the required documentation within the required 30 calendar days because the guaranty agencies' research may not be concluded in that time frame. **A school will not be penalized if the guaranty agencies fail to respond to the school's request for verification of data within 15 working days.**

The Department will consider the appeal to have been received within the 30-day time frame if it receives a letter from the school explaining that it is appealing its loss of eligibility based on erroneous data and has forwarded the required information to the relevant guaranty agencies within the 10-day time frame. The Department will not consider a complete appeal to have been filed until all of the school's supporting documentation has been received by the Department.

WARNING-- The Department strongly believes that it is vital to have an appeal process that results in timely filed appeals. Some schools, however, have attempted to delay the appeal process by raising continual objections to the guaranty agencies when receiving unfavorable decisions. In cases where a school disagrees with a guaranty agency's decision, the school should submit its appeal to the Department with an explanation as to why it disagrees with the guaranty agency's decision.

GUARANTY AGENCIES--When agencies have reviewed and responded to each of a school's allegations, the Department recommends that you state in your letters that this is your final response, and all further correspondence regarding the school's appeal should be forwarded to the Department.

Requirements for Erroneous Data FFEL Appeals

All schools that lose FFEL Program eligibility under Section 435(a)(2) of the HEA have been sent the back-up data used to calculate their FY 1991, FY 1992, and FY 1993 official cohort default rates with their FY 1993 official cohort default rate notification letters. Schools should carefully review the back-up data to determine whether the information used to calculate the default rates is correct. If any discrepancies are found, the school should identify the problems and contact the guaranty agency(ies) that provided the data to the Department to confirm the correct information.

Schools appealing under this criteria must adhere to the following steps:

1 . **Review the Back-up Data**--The back-up data is listed in borrower social security number order. You should review the data to identify any discrepancies with your records. Examples of error may include the following: incorrect last date of attendance, date entered repayment, default date, or missing, duplicated, canceled or discharged loans. **Please keep in mind that an error in the data may not result in a change in your school's cohort default rate. Please note:** Schools are strongly encouraged to read Section 8 for important information on the use of back-up data in erroneous data appeals before they submit their challenges to their guaranty agencies.

2. **Contact the Guaranty Agency**--If you discover discrepancies between the information in your school's records and the back-up data used to calculate your school's official cohort default rate, you must provide the guaranty agency(ies) with evidence[2] to support your school's contention that the default rate data are incorrect and should be changed. Before preparing and mailing your school's challenge to the guaranty agency that reported the data to the Department, please make sure that you have included all of the items listed on the next page.

3. **Guaranty Agency(ies) Response**--The guaranty agency(ies) response(s) must be mailed to both the school and the Department. Each guaranty agency's response must contain the following information: (1) it must provide a response to each allegation of error raised by the school, and include the borrower's last date of attendance, the correct date entered repayment, the loan's status, and the default date, if applicable, and provide any evidence to support its position, and (2) the letter must identify any errors in the data previously submitted to the Department. **Please note that it is unacceptable for the guaranty agency(ies) to group allegations of error by type and simply state that all loans were reported to the Department correctly or incorrectly.**

4. **Prepare a Formal Request for Recalculation**--If the guaranty agency agrees that the data it provided to the Department are incorrect, it will notify the school and the Department in writing. If the guaranty agency disagrees with the school regarding one or more claimed errors, the guaranty agency will notify the school and the Department in writing of its disagreements. The school must then submit to the Department any documentation and explanation that the school contends will show that there were errors despite the guaranty agency's conclusion.

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[2] Evidence of error may include: a legible, signed and dated copy of a Student Status Confirmation Report showing that the student's last date of attendance was correctly reported to the guaranty agency in a timely manner, but that a different last date of attendance was used to determine the date entered repayment, or a copy of the front and back of a canceled check showing that the student's loan was canceled in full within 120 days of disbursement.

The school's formal request for recalculation must include the following items:

- A list of all disputed accounts should be prepared (See summarized format at the end of this section). List borrowers in social security number order. The list must include the borrower's name, social security number, and the nature of each alleged error.

- Your school can include a copy of the correspondence between it and the guaranty agency(ies) to aid in the review of your school's challenge.

- Copies of all relevant pages from the back-up data. Each allegation must be accompanied by at least one (1) page of back-up data. For example, if a student has a Federal Stafford loan that has been erroneously included as new data in the school's FY 1993 official cohort default rate, the school must provide the page from the back-up data where the student's social security number appears. If your school's challenge to any **new** FY 1993 default data will affect a prior fiscal year's calculation, you should include at least two (2) pages of back-up data with your challenge: the page from the FY 1993 back-up data where the student's social security number appears, and the page from the other fiscal year's back-up data (e.g., a page from FY 1992 or FY 1991 back-up data) where the student is or should be listed. **Please Note: To challenge new FY 1993 data or unresolved allegations of error from the FY 1993 pre-publication review period, your school must provide a copy of the page from the FY 1993 pre-publication data and the FY 1993 official default rate data to support its contention that the data is new, or that the school previously challenged the data and has unresolved allegations of error from the pre-publication review period.** For further information on the use of back-up data in erroneous data challenges, please read Section 8.

- Evidence (see footnote 2 on previous page) to support each allegation of error.

- The school must complete the "Checklist for Final Submission of a Complete FFEL Appeal" at the end of this section and include a certification by the school's chief executive officer that all of the information provided by the school in support of its appeal is true and correct. [See 34 C.F.R. § 668.17(d)(8)]

5. **Request a Recalculation**--When all of the above has been completed, the school must prepare a letter to the Department to request a recalculation. The letter, all supporting documentation, and the appropriate pages from the back-up data should be sent to the Department. The Department will then review the appeal; and, if there is sufficient documentation to make a correction, a new cohort default rate will be calculated. If this revised rate is lower than 25.0 percent for any of the relevant three years under review, the school will be notified that it is eligible to participate in the FFEL and, if applicable, Direct Loan Programs.

Reasons an Agency May Refuse To Accept a School's Claim of Error

A guaranty agency may refuse to accept a school's claim of error if the school makes only general allegations, or incorrect allegations, regarding the accuracy of the cohort default rate data, such as:

- The school failed to notify, or failed to notify timely, the lender or the guaranty agency of the student's change in status, which resulted in the student being listed in the wrong cohort year, or with the wrong loan status. Because the guaranty agency relied on the best available data, and the school failed to satisfy its responsibility to notify the lender or the guaranty agency of the correct information on a timely basis, the guaranty agency's records for that student may be revised, but it will not result in a change in the school's cohort default rate.

- The school's refund of the student's loan was not made within 120 days of the disbursement of the check by the lender. In this case, the origination fee and insurance premium paid by the student are not refundable. If the refund only covers the principal borrowed by the student, the fees remain as an outstanding debt and may constitute a default if not paid.

- The school failed to provide supporting documentation for each allegation of error.

- The school did not submit allegations timely.

A Word about the Department's Acceptance, Review, and Final Determination on Erroneous Data Appeals...

Appeals based on erroneous data will be considered only if the school identifies inaccuracies in the data used to calculate the cohort default rate, attempts to confirm the alleged inaccuracies with the guaranty agencies, and provides satisfactory documentation to the Department that the information is incorrect. REMEMBER: The school **must demonstrate** that a recalculation, based on correct data, will result in a cohort default rate lower than the 25.0 percent threshold for any one of the three relevant fiscal years.

If your school provides evidence with its complete appeal that a guaranty agency has verified data errors that will result in an official cohort default rate of less than 25.0 percent for at least one of the relevant fiscal years, the Department will review the request for recalculation. If there is sufficient documentation to make a correction, a new official cohort default rate will be calculated. The Department will make the final determination if a change is warranted in the school's official cohort default rate, even if the guaranty agency agrees with the school that there has been an error.

Examples of Acceptable Documentation

Appeals will **not** be considered if they are based on general statements of overall inaccuracy, or if the school fails to provide substantial documentation to support its contention that the data are incorrect. One example of supportable documentation are legible copies of signed and dated Student Status Confirmation Reports (SSCR) showing that the student's last date of attendance was correctly reported to the guaranty agency in a timely manner, but that a different last date of attendance was used to determine the date the loan entered repayment. Other examples include a copy of a canceled check (front and back) showing that a student's loan was canceled in total within 120 days of disbursement by the lender, or a copy of a bankruptcy agreement.

If the error was related to the school's failure to meet its obligations, the only errors that will be considered in determining that the cohort default rate was calculated based on inaccurate information are those that were reported to the lender or to the guaranty agency and either one or both neglected to take appropriate action. **If, for example, the date that a student's loan entered repayment is incorrect because the school failed to notify timely either the lender or the guaranty agency of the student's status change, the Department will not grant the appeal request.** In this case, the school must prove that it properly notified the lender or the agency, and one or the other parties failed to take the required action.

Appeal Decisions

The Department will issue a written decision on the appeal to the school and all of the guaranty agencies involved in the school's appeal. ALL APPEAL DECISIONS ARE FINAL. There is no further appeal.

Changes to Cohort Default Rate Data Reported to NSLDS

When a guaranty agency receives the Department's final determination letter on a school's erroneous data appeal, it should make the appropriate FY 1993 data changes to NSLDS. Please remember: NSLDS will not accept changes to FY 1991 or FY 1992 cohort default rate data because that loan information was reported by the guaranty agencies by tape dump. While the original data reported to the Department for FY 1991 and FY 1992 cannot be changed, the revised cohort default rate will be reflected in all rates generated with regard to the school.

IMPROPER LOAN SERVICING AND COLLECTION

Section 435(a) of the HEA was amended by Public Law 103-208 to allow schools to appeal official cohort default rate determinations based on allegations of improper loan servicing and collection if they are subject to loss of FFEL Program eligibility, or their official cohort default rates equal 20.0 percent or greater for the most recent year for which data are available.

The Department developed regulations to govern the procedures for appeals based on allegations of improper loan servicing and collection and, after receipt of public comment for suggested revisions to the procedures, published final regulations in the *Federal Register* on November 29, 1994 (59 Fed. Reg. 61192). The final regulations became effective on July 1, 1995. The November 29 regulations must be used by schools and guaranty agencies when submitting or responding to appeals of this type.

A brief description of the requirements and procedures for filing an appeal based on allegations of improper loan servicing and collection are provided below. **If a school has an official cohort default rate of 20.0 percent or greater, and it wishes to file an appeal of that rate based on allegations of improper loan servicing and collection, the school should read Section 6 of this booklet and the regulations at 34 C.F.R. § 668.17(f). Before filing any appeal, a school should always consult the appropriate regulations for comprehensive guidance on appeal requirements and procedures.**

Restriction and Costs Associated with Filing an Appeal Based on Improper Loan Servicing and Collection

The regulations prohibit a school from challenging the calculation of a cohort default rate under 34 C.F.R. § 668.17 more than once. 34 C.F.R. § 668.17(g). If your school previously challenged a particular fiscal year's cohort default rate calculation, it may not challenge that default rate again. For example, if your school previously challenged its FY 1992 official cohort default rate on the grounds of improper loan servicing and collection, it may not challenge that rate now as part of its FFEL appeal.

Schools also should be aware that there may be costs associated with an appeal based on allegations of improper loan servicing and collection. The regulations allow guaranty agencies to charge up to ten dollars per borrower file as a reasonable fee for copying and providing the documents to the school.

If the guaranty agency chooses to charge for copying and providing the servicing and collection records, the school **must** pay the amount owed to the agency before the agency is required to copy and provide the records. The guaranty agency must notify the school, in writing, of the amount owed within 15 working days of receiving the school's request for records, and the school must pay the amount owed to the guaranty agency within 15 working days of receiving notice of charges from the agency.

If payment is not received within this time frame, the school will be considered to have waived its appeal. The guaranty agency is required to notify the school and the Department that the school has waived its appeal in regard to the loans guaranteed by that agency. Unless the school proves that the agency's conclusion is incorrect, the Department will decide that the school has not met its burden of proof in regard to the servicing and collection of loans by that guaranty agency.

School Deadlines for Appeals Based on Improper Loan Servicing and Collection

An appeal based on improper loan servicing and collection will be considered submitted timely if:

1. **Within 10 working days from the date the school receives its notification that the school's official cohort default rates equal or exceed 25.0 percent for the relevant three-year period,** the school notifies the Department and each guaranty agency that it is appealing the calculation of its cohort default rate(s) because the rate(s) include loans that were improperly serviced or collected. **Remember:** The school's notification to the guaranty agency must include the back-up data the Department mailed to the school with its FY 1993 official cohort default rate notification letter.

2. **Within 30 calendar days of receiving the relevant loan servicing and collection records from all of the guaranty agencies,** the school must submit a complete appeal to the Department.[3]

[3] If a school is also filing an appeal based on erroneous data, it may delay submitting its improper loan servicing and collection appeal until the school's erroneous data appeal is complete and submit both appeals together.

WARNING REGARDING APPEAL DEADLINES

The Department requires a school to submit its appeal within 30 calendar days of the receipt of all of the guaranty agencies' responses to the school's requests for loan servicing records. The Department **will not** allow for any extension on the 30-day period to allow for further discussions between the school and the guaranty agency(ies). If your school feels that the records it received from the guaranty agency(ies) did not comply with the regulatory requirements, your school must submit the appeal to the Department with an explanation of the disagreement with the guaranty agency(ies). The Department will then review the school's allegations and make a final determination on the appeal.

Evidence of Improper Loan Servicing or Collection

The Department will remove a loan (or loans) from the numerator and denominator of the school's cohort default rate calculation if the school presents evidence to show that a default was (or defaults were) caused by improper loan servicing or collection, as defined by 34 C.F.R. § 668.17(f)(2)(viii).

The regulations provide that a default was due to improper loan servicing or collection if **the borrower never made a payment and the lender failed to perform one or more of the following activities:**

1. **Send at least one letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan if the lender was required to send such letter.

2. **Attempt at least one phone call** to the borrower or endorser if such an attempt was required.

3. **Submit a request for preclaims assistance** to the guaranty agency if such a request was required.

4. **Send a final demand letter** to the borrower if required.

5. **If required, the lender did not submit a certification (or other evidence) that skip tracing[4] was performed.**

REMEMBER: As defined by the regulations, if the borrower made one or more payments on the loan, improper loan servicing or collection did not cause the default.

[4] Some, but not all, examples of skip tracing activity include a call to directory assistance, a call to the Division of Motor Vehicles, or a call to a reference on the loan application.

Improper Loan Servicing and Collection Appeal Procedures

1. **Contact the Guaranty Agency**--Send a letter notifying the Department and each guaranty agency that it is appealing the calculation of its cohort default rate(s) because the rate(s) include loans that were improperly serviced or collected. Your school's letter to the guaranty agency(ies) must include a copy of the back-up data for each fiscal year's cohort default rate calculation appealed and a request for a representative sample of the loan servicing and collection records of the defaulted loans included in the calculation. The guaranty agency is required to respond to your request for a representative sample within 15 working days from receipt of your school's notification of intent to appeal. **If payment is required prior to receipt of the representative sample, the guaranty agency will notify the school of the amount of fees required to fulfill the request, but the agency is not required to provide the documents to the school until payment is received.**

2. **If Required, Submit Payment for Processing Fees** --The required fees must be paid to the guaranty agency within 15 working days. **Warning: If the school fails to submit the appropriate payment within the required time frame, it will waive its right to challenge its cohort default rate based on allegations of improper loan servicing and collection.**

3. **Prepare Formal Appeal**--After receiving the relevant loan servicing and collection records from all of the guaranty agencies, the school must submit a complete appeal to the Department within 30 calendar days.

   The school's appeal must include each of the following:

   --a list of the loans that the school alleges were improperly serviced or collected and an explanation of how the alleged improper loan servicing or collection error resulted in an inaccurate or incomplete default calculation*;

   --copies of the loan servicing or collection records for the loans that your school alleges were improperly serviced or collected*;

   --a copy of the guaranty agency's letter which includes the size of the representative sample and the total population of loans;

--a summary of the school's appeal which lists the number of loans insured by each guaranty agency that were included in the calculation of the appealed cohort default rate, and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the school to the population of loans for each guaranty agency; **and**

--a certification by an authorized official of the school that all information provided by the school in the appeal is true and correct.

***Please Remember: Do <u>not</u> list <u>all</u> loans or send all loan records; only list and send the loan servicing records for those loans that your school alleges were improperly serviced or collected as defined by the regulations.**

The Department will review all of the information submitted by the school. If the evidence presented in support of the school's appeal shows that some of the loans included in the sample of loan records should be excluded from the school's cohort default rate, the Department will subtract those loans from calculation. The Department will provide the school and each guaranty agency with its final written decision. No further appeal is provided.

Submitting FFEL Appeals

<u>Deadline for Submission of Improper Loan Servicing and Collection Appeals</u>

The school must submit its complete FFEL Program appeal based on improper loan servicing and collection to the Department at the address listed below within 30 calendar days of receiving the relevant loan servicing and collection records from all of the guaranty agencies that insured loans which were included in the cohort default rate calculation.

<u>Deadline for Submission of Erroneous Data Appeals</u>

A school must mail its complete FFEL Program appeal based on erroneous data to the Department at the address listed below within five (5) working days of receiving final responses from all of the guaranty agencies.

Deadline for Submission of Erroneous Data and Improper Loan Servicing and Collection Appeals

If a school is filing an FFEL Program appeal on the grounds of improper loan servicing and collection and erroneous data, the school may hold its improper loan servicing appeal until it has received all the information on the erroneous data appeal and submit both appeals together. The school should notify the Department, in writing, that it intends to submit the appeals together.

Deadline for Submission of Exceptional Mitigating Circumstances Appeals

A school must mail its complete FFEL Program appeal based on exceptional mitigating circumstances to the Department within 30 calendar days of receiving notice from the Department of the loss of FFEL Program eligibility. The Department will consider an appeal to have been mailed within the required time frame if it is postmarked by the 30th calendar day after receipt of notification and received within ten (10) days of the postmark date.

The address for all appeals is:

U.S. Department of Education
Default Management Section
ATTN: FFEL APPEALS
Room 3082, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5353

For your convenience, a pre-addressed mailing label is included at the end of this booklet for your use in mailing your school's appeal. If you need more mailing labels, please make photocopies of the enclosed label.

The Department recommends that all appeals be sent by overnight mail delivery service or, at a minimum, mailed certified mail, return receipt requested so that you have documentation that your school met the deadlines. Deadlines will be strictly enforced. In the event of a controversy, schools have the burden of demonstrating that they have met the deadlines.

A checklist is included at the end of this section to assist your school in correctly submitting all of the required FFEL appeal information. Please include this checklist with the final submission to facilitate the review of your school's appeal.

Appeal Decisions

The Department will issue a written decision on a school's appeal. Once the decision is made, there is no further appeal.

Appeal Certification

In accordance with 34 C.F.R. § 668.17(d)(8), a school MUST include in its appeal a certification by the school's chief executive officer (CEO) that all information provided by the school in support of its appeal is true and correct.

The certification contained on the checklist that is provided at the end of this section can serve as an approved CEO certification if properly completed.

Sample Format for Submitting Appeals on the Grounds of Mitigating Circumstances

NAME AND ADDRESS OF SCHOOL:

SCHOOL ID #:

STAFFORD/SLS BORROWERS / TOTAL ENROLLMENT = _____ = _____ (PERCENTAGE)

24 MONTH PERIOD - FROM: _____ TO: _____

NAME OF STUDENTS ENROLLED	SSN #	ENROLLMENT DATES FROM	ENROLLMENT DATES TO	STAFFORD/SLS LOAN TYPE STAFFORD/SLS	BORROWERS DATE DISBURSED
1.					
2.					
3.					
4.					

OR

ECONOMICALLY DISADVANTAGED / TOTAL ENROLLMENT = _____ = _____ (PERCENTAGE)

24 MONTH PERIOD - FROM: _____ TO: _____

NAME OF STUDENTS ENROLLED	SSN #	ENROLLMENT DATES FROM	ENROLLMENT DATES TO	PGI	AWARD YEAR	TOTAL FAMILY INCOME & SIZE	CALENDAR YEAR
1.							
2.							
3.							
4.							

COMPLETION PERCENTAGE: _____ TOTAL NUMBER OF STUDENTS SCHEDULED TO COMPLETE: _____ TOTAL NUMBER OF STUDENTS COMPLETING: _____

24 MONTH PERIOD - FROM: _____ TO: _____

NAME OF STUDENTS SCHEDULED TO COMPLETE	SSN #	ADDRESS OF COMPLETERS	DATE DEGREE RECEIVED	ENROLLED AND MAKING SAP	DATE TRANSFERRED TO HIGHER LEVEL	NAME OF SCHOOL TRANSFERRED TO	ADDRESS OF SCHOOL TRANSFERRED TO	NAME OF HIGHER LEVEL PROGRAM
1.								
2.								
3.								
4.								

JOB PLACEMENT PERCENTAGE: _____ TOTAL NUMBER OF STUDENTS RECEIVING DEGREE: _____ TOTAL NUMBER OF STUDENTS PLACED: _____

24 MONTH PERIOD - FROM: _____ TO: _____

NAME OF STUDENTS RECEIVING DEGREE	DATE DEGREE RECEIVED	SSN #	ADDRESS OF STUDENTS JOB PLACED	JOB TITLE	DATES OF EMPLOYMENT FROM	DATES OF EMPLOYMENT TO	NAME AND ADDRESS OF EMPLOYER	NAME OF HIGHER LEVEL PROGRAM	NAME AND ADDRESS OF SCHOOL	DATES OF ENROLLMENT FROM	DATES OF ENROLLMENT TO
1.											
2.											
3.											
4.											

Sample List of Disputed Accounts

School Name and OPE ID

PLEASE NOTE: This is a sample format. A form such as this can be used to facilitate the Department's review of your cohort default rate data. However, it must be accompanied by ALL of the required information described in Section 4, "Prepare a Formal Request for a Recalculation."

LAST NAME	FIRST NAME	SSN (*)	ALLEGATION	LDA (*)	DER (*)	DEFAULT DATE
Jones	Mary	123-45-6789				

Printed Name of Guaranty Agency Official

Title

Signature of Guaranty Agency Official

Guaranty Agency

Date Completed

*SSN = Social Security Number
*LDA = Last Date of Attendance
*DER = Date Entered Repayment

CHECKLIST FOR FINAL SUBMISSION OF A COMPLETE FFEL APPEAL

OPE ID:_____

School Name _____

I am appealing on the basis of:

_____**EXCEPTIONAL MITIGATING CIRCUMSTANCES**

Regulatory Criteria:

_____15% or fewer students received Federal Stafford or Federal SLS Loans; and

_____66⅔% Documented Student Completion Rate; and

_____66⅔% Documented Student Job Placement Rate.

OR

_____Economically Disadvantaged Students comprise 66⅔% of the student population; and

_____66⅔% Documented Student Completion Rate; and

_____66⅔% Documented Student Job Placement Rate.

_____**ERRONEOUS DATA**

Regulatory Criteria:

_____Copy of all requests sent to relevant guaranty agency(ies) (This information should have been forwarded to the Department within ten (10) working days of receipt of default rate notification);

_____Formal request to the Department for a recalculation of the default rate(s) for one or more of the relevant fiscal years;

_____Copies of the back-up data that support any changes to one or more fiscal years. This must include copies of the appropriate portions of the back-up data for each allegation made; and

_____Supporting documentation, which must include evidence that use of the guaranty agency's verified corrected data will produce an official cohort default rate of less than 25.0 percent for one of the three relevant official cohort default rates.

_____**IMPROPER LOAN SERVICING AND COLLECTION**

Regulatory Criteria:

_____ Copy of all requests sent to relevant guaranty agency(ies) (This information should have been forwarded to the Department within ten (10) working days of receipt of default rate notification);

_____ A list of the loans which the school alleges were improperly serviced or collected, and the nature of the alleged servicing or collection error for each allegation;

_____ A copy of the lists provided to the school by the guaranty agency(ies);

_____ Copies of all of the loan servicing or collection records that the school believes have been subject to improper servicing or collection; and

_____ Summary of the school's appeal that lists the number of loans insured by each guaranty agency that were included in the calculation, and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample to the population of loans for each guaranty agency.

Page 2 - Checklist for Final Submission of a Complete FFEL Appeal

After all verified errors are corrected, our revised cohort default rate for one of the three (3) relevant fiscal years under review will be below 25.0 percent, as the following table indicates:

	Borrowers in Default	Borrowers in Repayment	Fiscal Year Default Rate
Original Data	(#)	(#)	(%)
Number of Errors Verified by GAs	(#)	(#)	(%)
New Data	(#)	(#)	(%)

NOTE: A separate table should be prepared for each fiscal year the school is appealing. However, do not send a separate appeal for each year contested.

CEO Certification:

In accordance with 34 C.F.R. § 668.17(d)(8), I certify that all information provided in support of this appeal is true and correct.

Sincerely,

(CEO/President)

WARNING: Submission of falsified information in support of the appeal may lead to criminal or civil prosecution of the institution and the individuals responsible. A falsified submission may also lead the Department to limit, suspend, or terminate the institution's eligibility to participate in the Title IV programs or take other administrative actions against the institution and responsible individuals.

SECTION 5 - Limitation, Suspension, and Termination Actions for Schools with High Cohort Default Rates

In accordance with 34 C.F.R. § 668.17(a)(1)(ii)(E), if a school has an FY 1993 official cohort default rate in excess of 40.0 percent, it may be subject to a limitation, suspension, or termination (LS&T) action affecting its participation in all Title IV student assistance programs.

The school is expected to implement all of the default reduction measures described in 34 CFR Part 668, Appendix D no later than 60 days after it receives notification that its FY 1993 official cohort default rate exceeds 40.0 percent.

A school's only defense to an LS&T action based on a cohort default rate above the threshold is that the school can demonstrate that it has acted diligently to implement the default reduction measures described in 34 C.F.R. Part 668, Appendix D. [See 34 C.F.R. § 668.90(a)(3)(iv)]

There is no time limit for the Department to impose an LS&T action based on a cohort default rate above the threshold for a particular fiscal year. Cohort default rates for fiscal years other than the year for which the action is brought are irrelevant to the proceeding.

Should the Department decide to initiate an LS&T action against a school for having a high default rate, the school will be notified in writing and be given an opportunity to appeal the intended action before a hearing official. LS&T actions are governed by 34 C.F.R. Part 668, Subpart G.

A copy of 34 C.F.R. 668, Appendix D is included in Section 2. Questions regarding the implementation of the default reduction measures described in Appendix D, should be directed to the Default Management Section by calling 202-708-9396, or the appropriate regional office.

BEST COPY AVAILABLE

SECTION 6 - Appeals of Official Cohort Default Rates of 20.0 Percent or Greater Based on Allegations of Improper Loan Servicing and Collection

If a school's FY 1993 official cohort default rate equals or exceeds 20.0 percent, it may challenge its FY 1993 cohort default rate determination based on allegations of improper loan servicing and collection. If the school fails to challenge the calculation of a cohort default rate determination within 10 working days of receiving notice that its most recent official cohort default rate is 20.0 percent or greater, it is prohibited from challenging that rate. See 34 C.F.R.§ 668.17(g).

In the past, the Department had allowed any school to challenge its official cohort default rate based on erroneous data. The Department will no longer honor such requests, unless the school is subject to loss of FFEL Program eligibility.

The Higher Education Technical Amendments of 1993 amended Section 435(a) of the HEA to allow schools to appeal official cohort default rate determinations based on allegations of improper loan servicing and collection if their official cohort default rates are 20.0 percent or greater for the most recent fiscal year for which rates have been determined.

The Department developed regulations to govern the procedures for appeals based on allegations of improper loan servicing and collection and, after receipt of public comment for suggested revisions, published final regulations in the *Federal Register* on November 29, 1994 (59 Fed. Reg. 61192). The final regulations became effective on July 1, 1995. The November 29 regulations must be used by schools and guaranty agencies when submitting or responding to appeals of this type.

A brief description of the requirements and procedures for filing an appeal based on allegations of improper loan servicing and collection are described below. **The Department strongly suggests that schools read the regulations at 34 C.F.R. § 668.17(f) before filing an appeal.**

Costs Associated with Filing an Appeal Based on Improper Loan Servicing and Collection

Schools should be aware that there may be costs associated with an appeal based on allegations of improper loan servicing and collection. The regulations allow guaranty agencies to charge up to ten dollars per borrower file as a reasonable fee for copying and providing the documents to the school.

If the guaranty agency chooses to charge for copying and providing the servicing and collection records, the school **must** pay the amount owed to the agency before the agency is required to copy and provide the records. The guaranty agency must notify the school, in writing, of the amount owed within 15 working days of receiving the school's request for records, and the school must pay the amount owed to the guaranty agency within 15 working days of receiving notice of charges from the agency.

If payment is not received within this time frame, the school will be considered to have waived its appeal. The guaranty agency is required to notify the school and the Department that the school has waived its appeal in regard to the loans guaranteed by that agency. Unless the school proves that the agency's conclusion is incorrect, the Department will decide that the school has not met its burden of proof in regard to the servicing and collection of loans by that guaranty agency.

School Deadlines for Appeals Based on Improper Loan Servicing and Collection

An appeal based on improper loan servicing and collection will be considered submitted timely if:

1. **Within 10 working days from the date the school receives its notification** that the school's official cohort default rate equals or exceeds 20.0 percent, the school notifies the Department and each guaranty agency that it is appealing the calculation of its cohort default rate because the rate includes loans that were improperly serviced or collected. The school's notification to the guaranty agency must include the back-up data the Department mailed to the school with its FY 1993 official cohort default rate notification letter.

2. **Within 30 calendar days of receiving the relevant loan servicing and collection records** from all of the guaranty agencies, the school must submit a complete appeal to the Department.

WARNING REGARDING APPEAL DEADLINES

The Department requires a school to submit its appeal within 30 calendar days of the receipt of all of the guaranty agencies' responses to the school's requests for loan servicing records. The Department will not allow for any extension on the 30-day period to allow for further discussions between the school and the guaranty agency(ies). If your school feels that the records it received from the guaranty agency(ies) did not comply with the regulatory requirements, your school must submit the appeal to the Department with an explanation of the disagreement with the guaranty agency(ies). The Department will then review the school's allegations and make a final determination on the appeal.

Evidence of Improper Loan Servicing or Collection

The Department will remove a loan (or loans) from the numerator and denominator of the school's cohort default rate calculation if the school presents evidence to show that a default was (or defaults were) caused by improper loan servicing or collection, as defined by 34 C.F.R. § 668.17(f)(2)(viii).

The regulations provide that a default was due to improper loan servicing or collection if the borrower never made a payment and the lender failed to perform one or more of the following activities:

1. **Send at least one letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan if the lender was required to send such letter.

2. **Attempt at least one phone call** to the borrower or endorser if such an attempt was required.

3. **Submit a request for preclaims assistance** to the guaranty agency if such a request was required.

4. **Send a final demand letter** to the borrower if required.

5. **If required, the lender did not submit a certification (or other evidence) that skip tracing (see footnote 4 on page 46) was performed.**

REMEMBER: As defined by the regulations, if the borrower made one or more payments on the loan, improper loan servicing or collection did not cause the default.

Improper Loan Servicing and Collection Appeal Procedures

1. **Contact the Guaranty Agency**--Send a letter notifying the Department and each guaranty agency that guaranteed loans included in the applicable cohort default rate calculation of your intent to appeal. Your school's letter to the guaranty agency(ies) must include a copy of the back-up data and a request for a representative sample of the loan servicing and collection records of the defaulted loans included in the calculation. The guaranty agency is required to respond to your request for a representative sample within 30 working days from receipt of your school's notification of intent to appeal. If payment is required prior to receipt of the representative sample, the guaranty agency will notify the school of the amount of fees required to fulfill the request, but the agency is not required to provide the documents to the school until payment is received.

2. **If Required, Submit Payment for Processing Fees**--The required fees must be paid to the guaranty agency within 15 working days. **Warning:** If the school fails to submit the appropriate payment within the required time frame, it will waive its right to challenge its cohort default rate based on allegations of improper loan servicing and collection.

3. **Prepare Formal Appeal**--After receiving the relevant loan servicing and collection records from all of the guaranty agencies, the school must submit a complete appeal to the Department within 30 calendar days.

   The school's appeal must include each of the following:

   --a list of the loans that the school alleges were improperly serviced or collected and an explanation of how the alleged improper loan servicing or collection error resulted in an inaccurate or incomplete default calculation*;

   --copies of the loan servicing or collection records for the loans that your school alleges were improperly serviced or collected*;

   --a copy of the guaranty agency's letter which includes the size of the representative sample and the total population of loans;

   --a summary of the school's appeal which lists the number of loans insured by each guaranty agency that were included in the calculation of the appealed cohort default rate, and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loan records provided to the school to the population of loans for each guaranty agency; **and**

--a certification by an authorized official of the school that all information provided by the school in the appeal is true and correct.

***Please Remember: Do not list all loans or send all loan records; only list and send the loan servicing records for those loans that your school alleges were improperly serviced or collected as defined by the regulations.**

Appeal Submissions

Please mail your school's appeal to the following address:

U.S. Department of Education
Default Management Section
ATTN: APPEALS
Room 3082, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5353

For your convenience, a pre-addressed mailing label is included at the end of this booklet for your use in mailing your school's appeal. If you need more mailing labels, please make photocopies of the enclosed label.

The Department recommends that all appeals be sent by overnight mail delivery service or, at a minimum, mailed certified mail, return receipt requested so that you have documentation that your school met the deadlines. Deadlines will be strictly enforced. In the event of a controversy, schools have the burden of demonstrating that they have met the deadlines.

Appeal Decisions

The Department will review all of the information submitted by the school. If the evidence presented in support of the school's appeal shows that some of the loans included in the sample of loan records should be excluded from the school's cohort default rate, the Department will subtract those loans from calculation. The Department will provide the school and each guaranty agency with its final written decision. No further appeal is provided.

SECTION 7 - Requesting Back-Up Data

All schools with FY 1993 official cohort default rates of 20.0 percent or greater receive the back-up data used to calculate their rates. Schools that have not previously received the back-up data used to calculate their FY 1991, FY 1992, and/or FY 1993 official cohort default rates, may request the data. **A school can make a one-time request for the back-up data. Therefore, please read the information that follows before requesting back-up data.**

How To Request Back-Up Data

Please complete the "Request for Back-Up Data" on the following page and mail it to the Department at the address listed on the face of the order blank. Upon receipt of your signed request, the Department will request the back-up data, and it will be mailed directly to your school. It will take approximately a week for your school's back-up data to arrive.

Requesting Back-Up Data for Schools That Have Changed Status

Schools may request the back-up data for their school, and they will receive the appropriate information. NSLDS will automatically identify schools that have changed status, i.e., were formerly locations of free-standing schools and changed their status to become free-standing, or merged with other schools, and will send those schools all of the cohort default rate information used to calculate their official cohort default rates.

Type of Formats Available

Your school can request back-up data in one of three formats: hard copy, tape, or diskette. However, you may not request more than one format. The school may keep any tapes or diskettes it receives.

Diskettes are available in: 5 1/4 double-sided, high density (DSHD)
5 1/4 double-sided, double density (DSDD)

OR

3 1/2 double-sided, high density (DSHD)
3 1/2 double-sided, double density (DSDD)

Tape cartridges are available in: 800, 1600, or 6250 BPI

Request for Back-Up Data

NOTE: See detailed explanation of Back-Up Data before completing this information.

Institutional Information

Please **TYPE** or **PRINT** the following to ensure proper delivery:

School Name: _____

Mailing Address for Back-Up Data: _____

_____

Name & Title of Person Receiving Back-Up Data: _____

Telephone Number: ( ) _____

OPE ID Number:

_ _ _ _ _ _ _ _

NOTE: Use the Number that appears on your Default Rate Notification Letter.

Return Completed Request To:

U.S. Department of Education
Default Management Section
Room 3082, ROB#3
600 Independence Ave., SW
Washington, DC 20202-5353

Available Format

Select only **ONE** of the following formats. All requests will be provided in the format selected.

- ❑ Print Out (Hard Copy)
- ❑ Tape - 6250 BPI
- ❑ Tape - 1600 BPI
- ❑ Tape - 800 BPI
- ❑ Diskette - 3.5 High Density
- ❑ Diskette - 3.5 Low Density
- ❑ Diskette - 5.25 High Density
- ❑ Diskette - 5.25 Low Density

Select only **ONE** of the following sets of available records.

- ❑ **FY 1993** Only Default Rate Records
- ❑ **FY1993, FY1992, FY1991** Default Rate Records

WARNING: The Back-Up Data can only be requested by your school's authorizing official. Please provide the signature, name, and title of the authorizing official.

_____ _____

Signature & Date

_____

Typed or Printed Name & Title

SECTION 8 - Back-Up Data

The back-up data (Loan Record Detail Report) contains the loan records of FFEL Program borrowers who attended your school and were reported to the Department for the purpose of calculating your school's official cohort default rate. If your school is subject to another school's cohort default rate due to a change in your school's status, the information will cover loans guaranteed for students who attended all schools for which your cohort default rate is calculated.

Information Used To Calculate Official Default Rates

When reviewing your school's back-up data, please keep in mind that the Department calculates cohort default rates by counting borrower social security numbers. Therefore, a student may have multiple loans, e.g., a Federal Stafford and a Federal SLS loan, listed in the back-up data because those loans entered repayment in the same cohort period, but the student was only counted once in the cohort default rate calculation. Similarly, if there are multiple loan records for the student for one of the loan programs, the student was still counted only once. You should note that the data reflects the status of loans through September 30 of the year following the cohort year. Therefore, data for the FY 1993 cohort year reflect the status of loans through September 30, 1994. Changes after that date, including a student's present loan status, have no bearing on your school's cohort default rate calculation.

What's New for FY 1993

Back-up data is produced by the NSLDS based on information reported to NSLDS for the purpose of calculating official cohort default rates. As a result, you may notice that the back-up data you receive with your school's cohort default rate notification letter will appear different in terms of content and general appearance from the back-up data that you may have received in prior years. These changes should make it easier for you to read and understand how the loan information was used to calculate your school's cohort default rate.

The FY 1993 back-up data reflects the type of loan and, if a claim was paid, the claim paid date and the reason the claim was paid. Also, the actual number of borrowers included in the numerator and denominator of the calculation and the school's FY 1993 **actual** cohort default rate are listed at the end of the back-up data report. As discussed in Section 1, the Department calculates an actual cohort default rate for every school that has loan information reported by a guaranty agency. In most cases, a school's actual cohort default rate is the same as its official cohort default rate; however, please refer to the FY 1993 official cohort default rate notification letter for your school's official cohort default rate. If your school has an average FY 1993 official cohort default rate, that rate will comprise an average of the total actual numerator and denominator counts listed on the FY 1991, FY 1992, and FY 1993 back-up data reports.

When a school's FY 1991 and/or FY 1992 official rates have been revised through recalculation or appeal, the changes in the data **will not** be reflected in the FY 1991 and FY 1992 back-up data reports. However, the changes are reflected in the actual numerator and denominator counts and the school's actual default rate. Again, please refer to the notification letter for your school's FY 1993 official cohort default rate.

Supplemental Back-up Data Report for FY 1992

All loans are listed together on the back-up data reports produced by NSLDS. However, NSLDS is providing a supplemental SLS back-up data report for FY 1992 because the reporting requirements for Federal SLS loans entering repayment in FY 1992 require two fields not required for Federal Stafford loans.

The FY 1992 Federal SLS supplemental back-up data report contains enrollment status dates and enrollment status codes which are used to determine the date entered repayment for a Federal SLS loan for FY 1992. If your school's challenge to the data involves loan information reported for a Federal SLS loan for the FY 1992 cohort period, the date entered repayment reported by the guaranty agency can be found on the supplemental back-up data report.

Please read the discussion on the following page on how to use the back-up data to determine the date entered repayment on Federal Stafford and Federal SLS loans.

Definitions Used To Determine the Date Entered Repayment

For the purpose of calculating official cohort default rates, the following definitions will determine whether a loan will be included in the denominator of the default rate calculation for a given cohort period.

For FY 1993 and Prior Fiscal Years--A Subsidized Federal Stafford or Unsubsidized Stafford Loan: enters repayment based on the end of the established grace period plus one day, OR enters repayment based on arrangements made by the student to make payments prior to the end of the grace period plus one day.

For FY 1993--A Federal SLS Loan: (1) enters repayment based on less than half-time date plus one day; (2) enters repayment based on arrangements made by the student to make payments prior to less than half-time date plus one day; or (3) enters repayment based on the date a Federal Stafford loan enters repayment if the Federal SLS loan meets the criteria established to be linked to a Federal Stafford loan.

The criteria for linking a Federal SLS loan's date entered repayment with the date entered repayment for a subsidized or unsubsidized Federal Stafford loan are as follows [5]:

The date entered repayment for a Federal SLS loan is the same as a Federal Stafford's date entered repayment if the Federal SLS loan is disbursed after the Federal Stafford loan was made but before the Federal Stafford loan entered repayment, OR if a Federal SLS loan is disbursed prior to a Federal Stafford loan being made and the student maintained continuous enrollment from the date the Federal SLS loan was disbursed to the date the Federal Stafford loan was made.

For FY 1992--A Federal SLS Loan: (1) enters repayment when the borrower ceased to be enrolled on at least a half-time basis, or (2) if the borrower has both a Federal Stafford and Federal SLS loan that enter repayment within the same cohort period, the date entered repayment on the Federal SLS loan is the same date entered repayment as reported for the Federal Stafford loan.

[5] The concept of "linking" the date entered repayment for a student's Federal SLS loan to the same student's Federal Stafford loan is used for purpose of calculating cohort default rates ONLY.

As stated earlier, the FY 1992 back-up data contains a separate report for Federal SLS loans. The Federal SLS supplemental report contains two fields to report a borrower's date entered repayment: the enrollment status date and the enrollment status code. These fields were used to report the date entered repayment for Federal SLS loans that entered repayment in the FY 1992 cohort. **For FY 1992, the date entered repayment is the enrollment status date if the enrollment status code is "L" (less than half-time), "G" (Graduated), or "W" (Withdrawn).** Loans with enrollment status codes of L, G, or W that entered repayment between October 1, 1991 and September 30, 1992 are counted in the FY 1992 cohort default rate calculation.

For FY 1991--A Federal SLS Loan: for the purpose of calculating cohort default rates, the END CLASS DATE or the LOAN GUARANTEE DATE field, whichever shows the later date, is used for the date the loan entered repayment

Differences between NSLDS and PRE-NSLDS Back-Up Data

Schools that receive FY 1991, FY 1992, and FY 1993 back-up data will notice that the FY 1991 and FY 1992 back-up data reports are designated as PRE-NSLDS. PRE-NSLDS means that the loan information was originally reported through the tape dump process and was uploaded to NSLDS. While NSLDS and PRE-NSLDS back-up data's formats are the same, there are differences in the type of loan information that is captured for NSLDS back-up data reports and the type of loan information that was captured for back-up data reports under the tape dump process (PRE-NSLDS).

For example, PRE-NSLDS data (FY 1991 and FY 1992 back-up data) will not list the default date because this data field was not available to report this information. Similarly, in the past, the date entered repayment field was not previously available on Federal SLS back-up data reports. Although the date entered repayment field is now available and used to report the Federal SLS date entered repayment on FY 1993 back-up data, this field will be blank on the FY 1991 and FY 1992 back-up data. Other data fields were used to capture the date entered repayment for Federal SLS loans for FY 1991 and FY 1992 because tape dump back-up data did not contain a date entered repayment field for Federal SLS loans. Please refer to the discussion above for further information on the date entered repayment for Federal SLS loans.

Also, under the tape dump process, if a student had multiple loans enter repayment in the same cohort period, only one loan was counted in the calculation, but the default rate usage code would still list that loan in the denominator, numerator, or both. NSLDS uses a default rate usage "E," meaning not counted because another loan is already counted in this calculation. Because this code was not available under the tape dump process, PRE-NSLDS back-up data continues to report the loan information in the same manner as was done under the tape dump process.

And finally, PRE-NSLDS back-up data will not reflect changes to the data due to a recalculation or appeal. The school's official cohort default rate and actual numerator and denominator totals will reflect the results of a recalculation or appeal of an FY 1991 or FY 1992 cohort default rate.

How To Use Back-Up Data in FFEL Appeals Based on Erroneous Data

When a school challenges the data used to calculate its official cohort default rate(s), the school should send the page from the back-up data where the student appears, or should have appeared, so the guaranty agency and the Department can see where the student's loan was included or excluded, as the case may be, from the calculation. If a student's social security number appears, or should appear, at the top or bottom of a back-up data page, please send the guaranty agency and the Department the preceding or following page, so we can verify that the student had no other loans reported in that cohort period.

Although the back-up data reports contain all loans reported by the guaranty agency(ies), a school still may have to send several pages of back-up data for each allegation of error because a change to the data used to calculate one year's cohort default rate will result in a change to a prior year's cohort default rate. This is especially true if the change will involve the FY 1992 cohort because the Department will be sending schools two reports for FY 1992: a regular back-up data report and a Federal SLS supplemental report.

For example, a guaranty agency may report a loan as entering repayment in the FY 1992 cohort period, based on the anticipated graduation date on the student's loan application. However, the school's records reveal that the loan should have been converted into repayment status during the FY 1993 cohort period, based on the student's actual last date of attendance at the school. The school timely notified the guaranty agency of the change in the student's last date of attendance. The guaranty agency agrees with the school that the date entered repayment for this loan places the loan in the FY 1993 cohort period, not the FY 1992 cohort period.

Before a change can be made to the school's FY 1992 and FY 1993 cohort default rates, the guaranty agency and the Department must verify that the loan was, in fact, included in the wrong cohort year and that the student had no other loans reported for FY 1992. The guaranty agency and the Department review pages from the regular FY 1992 back-up data report and the FY 1992 Federal SLS supplemental report to see how the loan was originally reported and to determine if the borrower had any other loans enter repayment in FY 1992.

The Department and guaranty agency will review both FY 1992 back-up data reports to see where the student's social security number appears and the page from the school's FY 1993 back-up data where the student's social security number should have appeared, and notes that the student was incorrectly included in the FY 1992 cohort default rate information and excluded from the FY 1993 cohort default rate information. The data also reveals that the student had no other loans. When the Department makes a final determination on the school's appeal, it will correct the data error by removing the student's loan from the denominator of the FY 1992 cohort default rate calculation and adding it to the denominator of the FY 1993 calculation.

On the other hand, if the change only affects one cohort period, only one (1) page of data is required per allegation of error. For example, a school will only have to send the page from the FY 1993 back-up data if the school alleges that a student was erroneously excluded from the FY 1993 default rate data.

The student was not previously included in another cohort period, as was the case in the earlier example, so the school only needs to show that the student was not included in the FY 1993 calculation by sending the page from the back-up where the student's social security number should have appeared.

Reminder: If a student's social security number appears, or should appear, at the top or bottom of a back-up data page, please send the guaranty agency the preceding or following page, so the agency can verify that the student had no other loans reported in that cohort period.

If your school has any questions about which, or how many pages of NSLDS and/or PRE-NSLDS back-up data to send with its appeal, please call the Default Management Section's Hotline at (202) 708-9396.

Privacy Act Notice

Back-up data contains the social security numbers and names of students who borrowed money to attend your school. It contains material of a private nature. The use of this material is covered by the U.S. Privacy Act and also may be governed by state and local laws and regulations. You should take appropriate steps to safeguard this material and to ensure that it is used and disposed of appropriately.

How To Read Back-Up Data Printouts

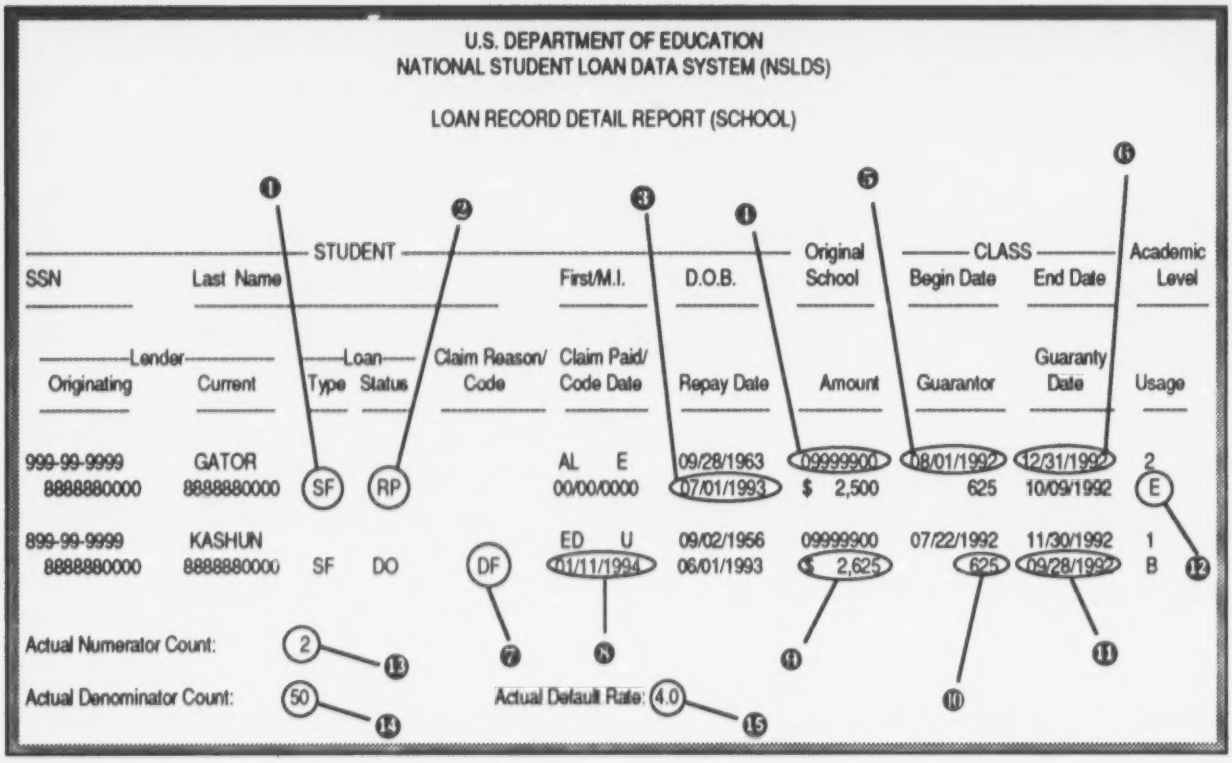
A back-up data printout, called a "Loan Record Detail Report," is an extract of the loan records that formed the basis for calculating your school's cohort default rate.

At the top of the first page of the printout is the name of the school, the school's Organization ID number (OPE ID number), the cohort year covered, the name of the loan program covered by the printout, and the process date. The process date is the date that the Department printed the report; it is not the date the Department received or used the information to determine your school's official cohort default rate.

The data field descriptions for the back-up data can be found on the first two lines at the top of each page of back-up data--one right below the other. To locate specific loan information for a particular borrower, make sure you read the line of the loan record that corresponds with the data field description line. For example, to find a student's "Repay Date," the data field description for that data element shows that it can be found on line two (2) of the student's loan record. Therefore, look on the second line of the loan record for the "Repay Date." The date listed above the "Repay Date" in the loan record is the borrower's date of birth (DOB).

The printout is sorted by borrower social security number. When a borrower has more than one loan, the separate loans are sorted by the loan guarantee date.

The following page contains a sample page of back-up data, annotated with the major elements in each loan record.



❶ **Loan Type:** The following codes indicate the type of loan:

- **CL** Federal Consolidation Loan
- **SF** Subsidized Federal Stafford Loan
- **SL** Federal SLS (Supplemental Loans for Students)
- **SU** Unsubsidized Stafford Loans

❷ **Loan Status:** Current status of borrower's loan.

❸ **Repay Date:** The date used to determine if the loan is included in the denominator of the calculation.

❹ **Original School:** The OPE-ID of the school the borrower was attending when the loan was made.

❺ **Class Begin Date:** The date classes were scheduled to start for the loan period covered by the loan.

❻ **Class End Date:** The date classes were scheduled to end for the loan period covered by the loan.

❼ **Claim Reason/Code:** This field will contain a code to indicate the reason a claim was paid.

❽ **Claim Paid/Code Date:** The date used to determine if the loan is included in the numerator of the calculation.

❾ **Amount:** The amount of the loan less any cancelled funds.

❿ **Guarantor:** The three-digit code that identifies the guaranty agency that reported the loan information.

⓫ **Guaranty Date:** The date the guaranty agency insured repayment of the loan to the lender.

⓬ **Usage:** Indicates how data were used in calculation.

- **D** Entered repayment only-denominator only
- **B** Entered repayment and defaulted-both numerator and denominator
- **N** Not used in the calculation
- **E** Not counted because another loan already counted in this cohort calculation

⓭ **Actual Numerator Count:** The total number of unduplicated borrower records used in the numerator for the calculation.

⓮ **Actual Denominator Count:** The total number of unduplicated borrower records used in the demoninator for the calculation.

⓯ **Actual Default Rate:** See explanation in Section 8.

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List of Loan Status Codes

CODE	STATUS
BC	Bankruptcy Claim, Discharged
BK	Bankruptcy Claim, Active
CA	Canceled
DA	Deferred
DB	Defaulted, Then Bankrupt, Active, Chapter 13
DC	Defaulted, Compromise
DD	Defaulted, Then Died
DE	Death
DI	Disability
DK	Defaulted, Then Bankrupt, Discharged, Chapter 13
DL	Defaulted, In Litigation
DO	Defaulted, Then Bankrupt, Active, Other
DP	Defaulted, Paid-In-Full
DS	Defaulted, Then Disabled
DT	Defaulted, Collection Terminated
DU	Defaulted, Unresolved

List of Loan Status Codes

CODE	STATUS
DW	Defaulted, Write-Off
DX	Defaulted, Six Consecutive Payments
FB	Forbearance
ID	In School or Grace Period
OD	Defaulted, Then Bankrupt, Discharged, Other
PC	Paid-In-Full Through Consolidation
PF	Paid-In-Full
RF	Refinanced
RP	In Repayment
UI	Uninsured/Unreinsured

Contacting the Reporting Guaranty Agency

The guaranty agency list that follows contains the names, addresses, and other identifying information of the guaranty agencies. The agencies are listed in alphabetical order by the name of the state in which it is the primary guarantor. The address and addressee may be used to contact guaranty agencies to resolve discrepancies in backup data. However, do not use this address or addressee if a guaranty agency has provided you with a different address or addressee.

To identify the guarantor that reported specific loan information to the Department, look for the three-digit guaranty agency code listed on the back-up data for each loan record. You can use the three-digit codes listed in parentheses below to identify the guarantor's name and address.

Alabama, AL (701)

Alabama Commission on Higher Education
ATTN: Assistant Director for Compliance
P.O. Box 2470
Montgomery, AL 36102

Alaska, AK (702)

See United Student Aid Funds, Inc.

Arizona, AZ (804)

See United Student Aid Funds, Inc.

Arkansas, AR (705)

Student Loan Guarantee Foundation of Arkansas
ATTN: Manager, Compliance Division
219 South Victory Street
Little Rock, AR 72201-1884

Assigned to U.S. Department of Education (555)

For FY 1993 and subsequent fiscal years, defaulted loans that have been transferred to the Department due to the closure of a guaranty agency (e.g., HEAF) are/will be identified on schools' back-up data with a 555 guaranty agency code.

If your school requires information on loan(s) identified with a 555 code, please contact:

U. S. Department of Education
Default Management Section
Room 3082, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5353

California, CA (706)

California Student Aid Commission
ATTN: Manager, Compliance Audits Investigation Unit
P.O. Box 510845
Sacramento, CA 94245-0845

Colorado, CO (708)

Colorado Guaranteed Student Loan Program
ATTN: Manager, Compliance, Training & Investigations
999 18th Street, Suite 425
Denver, CO 80202-2471

Connecticut, CT (709)

Connecticut Student Loan Foundation
ATTN: Manager, Compliance & Lender Relations
525 Brook Street, P. O. Box 1009
Rocky Hill, CT 06067

Delaware, DE (710)

Delaware Higher Education Loan Program
ATTN: Student Loan Specialist
820 North French Street, 4th Floor
Wilmington, DE 19801

Florida, FL (712)

Florida Department of Education
Office of Student Financial Assistance
ATTN: Program Compliance Specialist
1344 Florida Education Center
325 West Gain Street
Tallahassee, FL 32399-0400

Georgia, GA (713)

Georgia Higher Education Assistance Corp.
ATTN: Director of Guaranteed Loans
2082 East Exchange Place, Suite 200
Tucker, GA 30084

Hawaii, HI (815)

See United Student Aid Funds, Inc.

Higher Education Assistance Foundation (HEAF)

For FY 1992 and prior fiscal years' back-up data only, loans that were guaranteed by HEAF will be identified by one of the following guaranty agency codes:

611, 620, 627, 631, 654, and 656

For information on HEAF defaulted loans only, contact:

U.S. Department of Education
Attn: Default Management Section-HEAF
Room 3082, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5353

***Idaho, ID (716)**

*The Student Loan Fund of Idaho, Inc. has closed.
All loans were transferred to:

Northwest Education Loan Association
Attn: Manager, Lender and School Services
500 Colman Building
811 First Avenue
Seattle, WA 98104

Illinois, IL (717)

Illinois Student Assistance Commission
ATTN: Manager, Loan Maintenance
1755 Lake Cook Road
Deerfield, IL 60015

***Indiana, IN (718)**

*The State Student Assistance Commission of Indiana (SSACI) has closed.
United Student Aid Funds, Inc. is now the designated guarantor for Indiana.

For information on loans formerly guaranteed by SSACI, please contact:

USA Services
Attn: Samantha Garrett-Harden, Default Coordinator
P.O. Box 6180
Indianapolis, IN 46206-6180

Iowa, IA (719)

Iowa College Student Aid Commission
ATTN: Compliance Officer
201 Jewett Building, Room 201
914 Grand Avenue
Des Moines, IA 50309

Kentucky, KY (721)

Higher Education Assistance Authority
ATTN: Senior Policy Analyst
1050 U.S. 127 South, Suite 102
Frankfort, KY 40601-4323

Louisiana, LA (722)

Louisiana Office of Student Financial Assistance Commission
ATTN: Manager of Policy and Compliance
P. O. Box 91202
Baton Rouge, LA 70821-9202

Maine, ME (723)

Maine Education Assistance Division, Finance Authority of Maine
ATTN: GSL Program and Compliance Coordinator
State House Station 119
Augusta, ME 04333

***Maryland, MD (724)**

The Maryland Higher Education Loan Corporation has closed. United Student Aid Funds, Inc. is the now the guarantor for loans previously held by the Maryland guaranty agency. For information on loans formerly guaranteed by the Maryland Higher Education Loan Corporation, please contact:

USA Services
Attn: Samantha Garrett-Harden, Default Coordinator
P.O. Box 6180
Indianapolis, IN 46206-6180

***Massachusetts, MA (725)**

American Student Assistance Corporation
ATTN: Director, Lender/School Relations and Compliance
330 Stuart Street
Boston, MA 02116-5292

*Guarantor for Washington, DC

Michigan, MI (726)

Michigan Higher Education Assistance Authority
ATTN: Manager, Audit & Program Review
P. O. Box 30047
Lansing, MI 48909

Minnesota, MN (727)

Northstar Guarantee Incorporated
Attn: Student Loan Officer
444 Cedar Street
Piper Jaffary Plaza, Suite 1910
St. Paul, MN 55101-2133

***Mississippi, MS (728)**

*The Mississippi Guarantee Student Loan Agency (MGSLA) has closed. United Student Aid Funds, Inc. is now the designated guarantor for Mississippi.

For information on loans formerly guaranteed by MGSLA, please contact:

USA Services
Attn: Samantha Garrett-Harden, Default Coordinator
P.O. Box 6180
Indianapolis, IN 46206-6180

Missouri, MO (729)

Coordinating Board for Higher Education
ATTN: Senior Associate, Student Financial Aid Programs
3515 Amazonas Drive
Jefferson City, MO 65109-5717

Montana, MT (730)

Guaranteed Student Loan Program
ATTN: Program Coordinator/Compliance
2500 Broadway
Helena, MT 59620-3101

Nebraska, NE (731)

Nebraska Student Loan Program
ATTN: Manager, Compliance and Program Review
1300 O Street, P. O. Box 82507
Lincoln, NE 68501-2507

Nevada, NV (732)

See United Student Aid Funds, Inc.

New Hampshire, NH (733)

New Hampshire Higher Education Assistance Foundation
ATTN: Training and Compliance Director
44 Warren Street, P. O. Box 877
Concord, NH 03302-0877

New Jersey, NJ (734)

New Jersey Higher Education Assistance Authority
Guaranteed Student Loan Program
ATTN: Assistant Director, Management Compliance Unit
4 Quakerbridge Plaza, CN 540
Trenton, NJ 08625

New Mexico, NM (735)

New Mexico Student Loan Guarantee Corporation
ATTN: Compliance & Program Review Officer
3900 Osuna, N.E., P.O. Box 27020
Albuquerque, NM 87125-7020

New York, NY (736)

New York State Higher Education Services Corp.
ATTN: Manager, Program Review Compliance/School
99 Washington Avenue, Twin Towers
Albany, NY 12255

North Carolina, NC (737)

North Carolina State Education Assistance Authority
ATTN: Compliance Review
P. O. Box 2688
Chapel Hill, NC 27515-2688

North Dakota, ND (738)

Student Loans of North Dakota
ATTN: Agency Manager
P. O. Box 5524
Bismarck, ND 58502-5524

Ohio, OH (739)

Ohio Student Loan Commission
ATTN: Manager of Compliance
309 South 4th Street, P.O. Box 16610
Columbus, OH 43216-6610

Oklahoma, OK (740)

Oklahoma Guaranteed Student Loan Program
ATTN: Compliance Coordinator
P. O. Box 3000
Oklahoma City, OK 73101-3000

Oregon, OR (741)

Oregon State Scholarship Commission
ATTN: Loan Processing Division Director
1500 Valley River Drive, Suite 100
Eugene, OR 97401-2146

***Pennsylvania, PA (742)**

Pennsylvania Higher Education Assistance Agency
ATTN: Director, Program Review
1200 N. 7th Street
Harrisburg, PA 17102

* Designated guarantor for WV

***Puerto Rico, PR (772)**

*The Puerto Rico Higher Education Assistance Corporation has closed.

All loans were transferred to:

Great Lakes Higher Education Corporation
Attn: Compliance and Claims Manager
P.O. Box 7858
Madison, WI 53707

Rhode Island, RI (744)

Rhode Island Higher Education Assistance Authority
ATTN: Chief, Compliance and Collection Division
560 Jefferson Boulevard
Warwick, RI 02886-1320

South Carolina, SC (745)

South Carolina State Education Assistance Authority
ATTN: Manager for Compliance
Interstate Center, Suite 210
P. O. Box 210219
Columbia, SC 29221

South Dakota, SD (746)

Education Assistance Corporation
ATTN: Supervisor for Technical Assistance and Program Reviews
115 First Avenue, S.W.
Aberdeen, SD 57401

Tennessee, TN (747)

Tennessee Student Assistance Corporation
ATTN: Loan Program Administrator
Parkway Towers, Suite 1950
404 James Robertson Parkway
Nashville, TN 37243-0820

Texas, TX (748)

Texas Guaranteed Student Loan Corporation
ATTN: Compliance Manager
Tower Of The Hill
13809 N. Highway 189, Suite 400
Austin, TX 78750-1240

***United Student Aid Funds, Inc. (800)**

USA Services
ATTN: Samantha Garrett-Harden, Default Coordinator
P.O. Box 6180
Indianapolis, IN 46206-6180

*Designated guarantor for AK, AZ, HI, IN, KS, NV, and WY

Utah, UT (749)

Utah Higher Education Assistance Authority
ATTN: Asst. Commissioner for Student Financial Assistance
P. O. Box 45202
Salt Lake City, UT 84145-0202

Vermont, VT (750)

Vermont Student Assistance Corporation
ATTN: Director, ED Loan Guarantee and Default Collection
P. O. Box 2000, Champlain Mill
Winooski, VT 05404-2601

Virgin Islands, VI (778)

Virgin Islands Joint Boards of Education
ATTN: Executive Director, Compliance
P. O. Box 11900
Charlotte Amalia
St. Thomas, VI 00801

Virginia, VA (751)

Virginia Student Assistance Authorities
ATTN: Supervisor, Compliance
411 East Franklin Street, Suite 300
Richmond, VA 23219-2492

Washington, WA (753)

Northwest Education Loan Association
ATTN: Manager, Lender and School Services
500 Colman Building
811 First Avenue
Seattle, WA 98104

West Virginia, WV (654)

See Pennsylvania

Wisconsin, WI (755)

Great Lakes Higher Education Corporation
ATTN: Lender and School Compliance Manager
P.O. Box 7902
Madison, WI 53707

Wyoming, WY (656)

See United Student Aid Funds, Inc.

SECTION 9 - Whom To Contact Regarding Default Rate Issues

Questions about school cohort default rate issues that are not answered in this booklet may be addressed in the "School Cohort Default Rate Fact Sheet." To obtain a copy of the fact sheet, please call or write:

U.S. Department of Education
Default Management Section
Room 3082, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5353
202-708-9396

For information on lender or guaranty agency cohort default rates, contact the Guarantor and Lender Oversight Staff at:

U.S. Department of Education
Room 4624, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5132
202-401-7482

To resolve errors in your school's back-up data, contact the guaranty agency that reported the data to the Department. A list of guaranty agencies and their addresses is included in this booklet.

For questions related to the close-out audit requirements for the Direct Loan Program, please contact the appropriate regional office. For general information about the Direct Loan Program, please contact the Direct Loan Task Force at:

U.S. Department of Education
Direct Loan Task Force
Room 4025, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5162
202-708-9951

For information on provisional certification or other certification/eligibility issues, please contact the Institutional Participation Division at: 202-401-6485

For copies of regulations, Dear Colleague Letters and other student aid publications, contact the Student Aid Information Center at:

U.S. Department of Education
P.O. Box 84
Washington, DC 20044-0084
1-800-433-3243

For individual defaulted loans that have been assigned to the Department of Education for collection, contact the Student Receivables Division, Debt Collection Service at:

U.S. Department of Education
Room 5118, ROB-3
600 Independence Avenue, SW
Washington, DC 20202-5320
1-800-621-3115

INSTRUCTIONS: Your school may use this mailing label to submit its appeal(s) to the U.S. Department of Education. If used, please tape the label on each box/bundle your school submits to the U.S. Department of Education. Please photocopy this form if more than one label is needed.

FROM:

SCHOOL: _____

ADDRESS: _____

_____

_____

OPE-ID NO. _____

MAIL TO: **U.S. DEPARTMENT OF EDUCATION**
600 INDEPENDENCE AVENUE, SW
ROB-3, ROOM 3082
WASHINGTON, DC 20202-5353
ATTN: DEFAULT MANAGEMENT SECTION

FOR SCHOOL USE (Please fill in dark pen or marker):

APPEAL TYPE (Check all that apply):

____ Erroneous Data ____ Loan Servicing ____ Exceptional Mitigating Circumstances

COHORT DEFAULT RATES CHALLENGED:

___ 1993 ____ 1992 ____ 1991

APPEAL SUBMISSION SIZE:

BOX/BUNDLE: _____ OF _____

NOTE: ONLY ONE SCHOOL'S APPEAL SUBMISSION(S) PER PACKAGE

FOR U.S. DEPARTMENT OF EDUCATION USE ONLY:

DATE RECEIVED: _____